California State Board of Education

Meeting Agenda Items for July 13-14, 2011

State Board Meeting for July 2011

Agenda and other related materials for the California State Board of Education (SBE) meeting on July 13-14, 2011.

Vision, Mission, and Goals

Bylaws

AGENDA

Wednesday, July 13th

Agenda Items

Item	Description
Item 1	Parent Empowerment
Item 2	Federal Update
Item 3	SIG – Funding Cohort 1
Item 4	SIG – Waiver
Item 5	SES – Additional Providers
Item 6	Middle School Dropouts API
Item 7	Proposed CELDT Regs

Waiver Consent Items

Item	Description
Item WC-1 General	Moorpark USD / Ivy Tech Charter
Item WC-2 General	Capistrano USD / Capistrano Connections Academy Charter
Item WC-3 Federal	Fort Bragg USD / Fort Bragg HS
Item WC-4 Federal	Shoreline USD / Tomales HS
Item WC-5 Federal	Sutter UHSD / Sutter HS
Item WC-6 General	Rescue Union ESD
Item WC-7 Petition	Poway USD
Item WC-8 General	Moreland ESD
Item WC-9 General	La Grange ESD
Item WC-10 Specific	Jamestown ESD / Chinese Camp ESD, Jamestown ES
Item WC-11 Specific	Alview-Dairyland UESD / Alview ES, Dairyland ES
Item WC-12 Specific	Terra Bella USD / Terra Bella ES, Carl F. Smith MS
Item WC-13 Specific	Madera COE / Various Schoolsite Councils
Item WC-14 Specific	Pleasanton USD
Item WC-15 Specific	West Orange County Special Ed Local Plan Area
Item WC-16 Specific	Santa Rita Union ESD / McKinnon ES
Item WC-17 General	9 LEAs - State Testing Apportionment Info Rpt Deadline

Waiver Non-Consent Items

Item	Description
Item W-1 General	8 Districts - waive portions of CA Ed Code
Item W-2 Specific	3 Districts - waive portions of CA Ed Code
Item W-3 Specific	San Jacinto USD
Item W-4 General	Tustin USD
Item W-5 General	Lemoore UHSD
Item W-6 General	Santa Barbara COE
Item W-7 General	Bass Lake Joint Union ESD
Item W-8 Specific	Bend Elementary SD / Bend ES
Item W-9 Specific	Taft Union HS / Buena Vista Continuation HS
Item W-10 Specific	Gerber Union ESD /Gerber Union ES, Gerber Community Day School
Item W-11 Specific	Hayward USD
Item W-12 Specific	Manteca USD
Item W-13 General	Imperial COE
Item W-14 General	Shasta COE
Item W-15 General	Mariposa COE
Item W-16 Specific	East Valley, Fontana, San Bernardino City Unified SELPA
Item W-17 General	Coachella Valley USD / Cahuilla Desert - Toro Canyon MS
Item W-18 General	Compton USD / McKinley ES
Item W-19 General	Farmersville USD / Snowden ES, Freedom ES, Farmersville JHS
Item W-20 General	King City USD / Del Rey ES, Santa Lucia ES
Item W-21 General	Taft City SD / Lincoln Junior HS
Item W-22 General	West Contra Costa USD / John F. Kennedy HS
Item W-23 General	West Contra Costa USD / Helms MS
Item W-24 General	San Diego USD / Roosevelt Int'l Baccalaureate MS
Item W-25 General	LAUSD / Carver MS, LA Academy MS, Central Region MS7
Item W-26 General	LAUSD / San Fernando MS, Lincoln HS – Track Funds for Student Transfers to San Fernando Inst of Applied Learning and Leadership in Entertainment and Media Arts

Agenda Items (continued)

Item	Description
Item 8	Assign Numbers Charter School Petitions
Item 9	Consolidated Applications
Item 10	SIM Fund – Encumbrances / Applications
Item 11	ESEA – Approval of Local LEA Plans
Item 12	SARC
Item 13	Public Comment

Thursday, July 14

Agenda Items (continued)

Item	Description
Item 14	Common Core
Item 15	SBE Projects and Priorities
Item 16	SSPI Chronic Absence
Item 17	Formation of Bonsall USD
Item 18	Renewal – Kingsburg Elementary Charter School Dist
Item 19	CCCTEC
Item 20	PCSGP Evaluation RFP
Item 21	Charter Renewal Regs – Third 15-Day Period
Item 22	Charter Revocation Regs – Third 15-Day Period
Item 23	Funding Rates for Nonclassroom Charter Schools
Item 24	Mitigating Circumstances SB 740

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

Last Modified: Thursday, August 04, 2011

Vision, Mission, and Goals

California State Board of Education.

VISION

All California students of the 21st century will attain the highest level of academic knowledge, applied learning and performance skills to ensure fulfilling personal lives and careers and contribute to civic and economic progress in our diverse and changing democratic society.

MISSION

Create strong, effective schools that provide a wholesome learning environment through incentives that cause a high standard of student accomplishment as measured by a valid, reliable accountability system.

GOALS

1. *Standards.* Adopt and support rigorous academic content and performance standards in the four core subjects for kindergarten and grades 1 through 12.

2. *Achievement.* Ensure that all students are performing at grade level or higher, particularly in reading and math, at the end of each school year, recognizing that a small number of exceptional needs students must be expected, challenged, and assisted to achieve at an individually determined and appropriately high level. Advocate for mandatory intervention for every child not at grade level. Do everything possible to ensure that "the job is done right in the first place."

3. *Assessment.* Maintain policies assuring that all students receive the same nationally normed and standards-based assessments, grades 2 through 11, again recognizing that a small number of exceptional needs students must be separately and individually assessed using appropriate alternative means to determine achievement and progress.

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

Last Reviewed: Friday, June 11, 2010

Bylaws

For the California State Board of Education, Amended July 9, 2003.

ARTICLE I

Authority

The California State Board of Education is established in the Constitution of the State of California and empowered by the Legislature through the California *Education Code*.

ARTICLE II

Powers and Duties

The Board establishes policy for the governance of the state's kindergarten through grade twelve public school system as prescribed in the Education Code, and performs other duties consistent with statute.

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ARTICLE III

Members

APPOINTMENT

Section 1.

The State Board of Education consists of 11 members who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

CC, Art. IX, Sec. 7
EC 33000 and 33000.5

TERM OF OFFICE

Section 2.

(a) The term of office of the members of the Board is four years, except for the student member whose term is one year.
(b) Except for the student member, who serves a one-year term, terms expire on January 15 of the fourth year following their commencement. Members, other than the student member, continue to serve until the appointment and qualification of their successors to a maximum of 60 days after the expiration of their terms. If the member is not reappointed and no successor is appointed within that 60-day period, the member may no longer serve and the position is deemed vacant. The term of the student member begins on August 1 and ends on July 31 of the following year.
(c) If the Senate refuses to confirm, the person may continue to serve until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first.
(d) If the Senate fails to confirm within 365 days after the day the person first began performing the duties of the office, the person may not continue to serve in that office following the end of the 365-day period.

EC 33001; 33000.5
GC 1774

VACANCIES

Section 3.

Any vacancy shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. The person appointed to fill a vacancy shall hold office only for the balance of the unexpired term.

EC 33002

STUDENT MEMBER

Section 4.

Finalists for the student member position shall be selected and recommended to the Governor as prescribed by law.

EC 33000.5

COMPENSATION AND EXPENSES

Section 5.

Members of the Board shall receive their actual and necessary travel expenses while on official business. Each member shall also receive one hundred dollars ($100) for each day he or she is acting in an official capacity.

EC 33006
GC 11564.5

CONFLICT OF INTEREST CODE

Section 6.

Board members shall file statements of economic interest as required by the Fair Political Practices Commission. The terms of a standard Conflict of Interest Code, adopted by the Commission and as may be amended, are incorporated by reference and constitute the Conflict of Interest Code of the Board.

2 CCR 18730
5 CCR 18600

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ARTICLE IV

Officers and Duties

PRESIDENT, VICE PRESIDENT

Section 1.

Officers of the Board shall be a president and a vice president. No member may serve as both president and vice president at the same time.

Section 2.

(a) The president and vice president shall be elected annually in accordance with the procedures set forth in this section.
(b) Prior to the December regular meeting, letters of nomination for the offices of president and vice president for the forthcoming calendar year shall be submitted to the executive director. When a member submits a letter nominating another member for either office, it shall be understood that the member being nominated has been consulted and has agreed to serve if elected. Members interested in serving in either office may nominate themselves.
(c) At a time to be set aside for the purpose by the president at the December meeting, the executive director shall indicate the names placed in nomination in accordance with paragraph (b). The president shall then call for other nominations from the floor, including self-nominations, which shall then be in order and shall not require a second.
(d) From the names placed in nomination at the December meeting, along with any additional nominations from the floor subject to the conditions set forth in this paragraph, a president and a vice president shall be elected at the beginning of the January regular meeting each year, with the newly elected officers assuming office immediately following the election. No member may

nominate himself or herself for the office of president or vice president at the January meeting, and any nomination for such office must be seconded if made at the January meeting.

(e) Six votes are necessary to elect an officer, and each officer elected shall serve for one year or until his or her successor is elected.

(f) If, in the Board's judgment, no nominee for the office of president or vice president can garner sufficient votes for election to that office at the January meeting, a motion to put the election over to a subsequent meeting is in order.

(g) In the event a vacancy occurs in the office of president or vice president during a calendar year, an election shall be held at the next meeting. Any member interested in completing the one-year term of an office that has become vacant may nominate himself or herself, but each nomination requires a second.

(h) The State Superintendent of Public Instruction shall preside only during the election proceedings for the office of president and for the conduct of any other business that a majority of the Board members may direct.

EXECUTIVE OFFICER

Section 3.

The State Superintendent of Public Instruction shall be secretary and shall act as executive officer of the Board.

EC 33004

DUTIES OF THE PRESIDENT

Section 4.

The president shall:

- serve as spokesperson for the Board;
- represent the position of the Board to the State Superintendent of Public Instruction;
- appoint members to serve on committees and as liaisons, as prescribed in these Bylaws, and as may be needed in his or her judgment properly to fulfill the Board's responsibilities;
- serve as ex officio voting member of the Screening Committee and any ad hoc committees, either substituting for an appointed member who is not present with no change in an affected committee's quorum requirement, or serving as an additional member with the affected committee's quorum requirement being increased if necessary, provided that in no case shall the service of the president as ex officio voting member increase the total voting membership of a committee to more than five;
- preside at all meetings of the Board and follow-up with the assistance of the executive director to see that agreed upon action is implemented;
- serve, as necessary, as the Board's liaison to the National Association of State Boards of Education, or designate a member to serve in his or her place;
- serve, or appoint a designee to serve, on committees or councils that may be created by statute or official order where required or where, in his or her judgment, proper carrying out of the Board's responsibility demands such service;
- determine priorities for expenditure of Board travel funds;
  provide direction for the executive director;
- direct staff in preparing agendas for Board meetings in consultation with the other members as permitted by law;
- keep abreast of local, state, and national issues through direct involvement in various conferences and programs dealing with such issues, and inform Board members of local, state, and national issues;
- and participate in selected local, state, and national organizations, which have an impact on public education, and provide to other members, the State Superintendent, and the staff of the Department of Education the information gathered and the opinion and perspective developed as the result of such active personal participation.

DUTIES OF THE VICE PRESIDENT

Section 5.

The vice president shall:

- preside at Board meetings in the absence of the president;
- represent the Board at functions as designated by the president;
- and fulfill all duties of the president when he or she is unable to serve.

DUTIES OF COMMITTEE CHAIR

Section 6.

The chair of the Screening Committee or any ad hoc committee shall:

- preside at meetings of the committee he or she chairs, except that he or she shall yield the chair to another committee member in the event he or she will be absent or confronts a conflict regarding any matter coming before the committee, and may yield the chair to another committee member for personal reasons; and
- in consultation with the president, other committee members, and appropriate staff, assist in the preparation of committee agendas and coordinate and facilitate the work of the committee in furtherance of the Board's goals and objectives.

DUTIES LIAISON OR REPRESENTATIVE

Section 7.

A Board member appointed as a liaison or representative shall:

- serve as an informal (non-voting) link between the Board and the advisory body or agency (or function) to which he or she is appointed as liaison or representative; and
- reflect the position of the Board, if a position is known to him or her, on issues before the advisory body or agency (or within the function) to which he or she is appointed as liaison or representative and keep the Board appropriately informed.

DUTIES OF A BOARD MEMBER APPOINTED TO ANOTHER AGENCY

Section 8.

The member shall:

- to every extent possible, attend the meetings of the agency and meet all responsibilities of membership; and
- reflect through his or her participation and vote the position of the Board, if a position is known to him or her, and keep the Board informed of the agency's activities and the issues with which it is dealing.

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ARTICLE V

Meetings

REGULAR MEETINGS

Section 1.

Generally, regular meetings of the Board shall be held on the Wednesday and Thursday preceding the second Friday of each of the following months: July, September, November, January, March, and May. However, in adopting a specific meeting schedule, the Board may deviate from this pattern to accommodate state holidays and special events. Other regularly noticed meetings may be called by the president for any stated purpose.

EC 33007

SPECIAL MEETINGS

Section 2.

Special meetings may be called to consider those purposes specified in law if compliance with the 10-day notice would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

OPEN MEETINGS

Section 3.

(a) All meetings of the Board, except the closed sessions permitted by law, and all meetings of Board committees, to the extent required by law, shall be open and public.

(b) All meetings shall conform to the Bagley-Keene Open Meeting Act, including requirements for notices of meetings, preparation and distribution of agendas and written materials, inspection of public records, closed sessions and emergency meetings, maintenance of records, and disruption of a public meeting. Those provisions of law which govern the conduct of meetings of the Board are hereby incorporated by reference into these Bylaws.

(c) Unless otherwise provided by law, meetings of any advisory body, committee or subcommittee thereof, created by statute or by formal action of the Board, which is required to advise or report or recommend to the Board, shall be open to the public.

GC 11120 et seq.

NOTICE OF MEETINGS

Section 4.

(a) Notice of each regular meeting shall be posted at least 10 days prior to the time of the meeting and shall include the time, date, and place of the meeting and a copy of the meeting agenda.

(b) Notice of any meeting of the Board shall be given to any person so requesting. Upon written request, individuals and organizations wishing to receive notice of meetings of the Board will be included on the mailing list for notice of regular meetings.

SPECIAL MEETINGS

Section 5.

(a) Special meetings may be called by the president or by the secretary upon the request of any four members of the board for the purposes specified in law if compliance with the 10-day notice requirements would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

- (b) Notice of special meetings shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting. Notice shall also be provided to all national press wire services. Notice to the general public shall be made by placing it on appropriate electronic bulletin boards if possible.
- (c) Upon commencement of a special meeting, the board shall make a finding in open session that giving a 10-day notice prior to the meeting would cause a substantial hardship on the board or that immediate action is required to protect the public interest. The finding shall be adopted by a two-thirds vote of the board or a unanimous vote of those members present if less than two-thirds of the members are present at the meeting.

EC 33008
GC 11125

EMERGENCY MEETINGS

Section 5.

(a) An emergency meeting may be called by the president or by the secretary upon the request of any four members without providing the notice otherwise required in the case of a situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities and which is properly a subject of an emergency meeting in accordance with law.

(b) The existence of an emergency situation shall be determined by concurrence of six of the members during a meeting prior to an emergency meeting, or at the beginning of an emergency meeting, in accordance with law.

(c) Notice of an emergency meeting shall be provided in accordance with law.

GC 11125.5
EC 33008
EC 33010

CLOSED SESSIONS

Section 6.

Closed sessions shall be held only in accordance with law.

GC 11126

QUORUM

Section 7.

(a) The concurrence of six members of the Board shall be necessary to the validity of any of its acts.
EC 33010

(b) A quorum of any Board committee shall be a majority of its members, and a committee may recommend actions to the Board with the concurrence of a majority of a quorum.

ORDER OF BUSINESS

Section 8.

The order of business for all regular meetings of the Board shall generally be:

- Call to Order
- Salute to the Flag
- Reorganization of the Board (if necessary)
- Approval of Minutes
- Communications
- Announcements
- Report of the Superintendent
- Reports of Board Ad Hoc Committee and Liaisons (as necessary)
- Ordering of the Agenda
- Consent Calendar
- Full Board Items
- Reports of Board Standing Committees
- President's Report
- Member Reports
- Adjournment

CONSENT CALENDAR

Section 9.

(a) Non-controversial matters and waiver requests meeting established guidelines may be presented to the Board on a consent calendar.
(b) Items may be removed from the consent calendar upon the request of an individual Board member or upon the request of Department staff authorized by the State Superintendent of Public Instruction to submit items for consideration by the Board.
(c) Items removed from the consent calendar shall be referred to a standing committee or shall be considered by the full Board at the direction of the president.

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ARTICLE VI

Committees and Representatives

SCREENING COMMITTEES

Section 1.

A Screening Committee composed of no fewer than three and no more than five members shall be appointed by the president to screen applicants for appointment to Board advisory bodies and other positions as necessary; participate, as directed by the president, in the selection of candidates for the position of student Board member in accordance with law; and recommend appropriate action to the Board.

AD HOC COMMITTEES

Section 2.

From time to time, the president may appoint ad hoc committees for such purposes as he or she deems necessary. Ad hoc committees shall remain in existence until abolished by the president.

REPRESENTATIVES

Section 3.

From time to time, the president may assign Board members the responsibility of representing the State Board in discussions with staff (as well as with other individuals and agencies) in relation to such topics as assessment and accountability, legislation, and implementation of federal and state programs. The president may also assign Board members the responsibility of representing the Board in ceremonial activities.

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ARTICLE VII

Public Hearings: General

SUBJECT OF A PUBLIC HEARING

Section 1.

(a) The Board may hold a public hearing regarding any matter pending before it after giving the notice required by law.
(b) The Board may direct that a public hearing be held before staff of the Department of Education, an advisory commission to the Board, or a standing or ad hoc committee of the Board regarding any matter which is or is likely to be pending before the Board. If the Board directs that a public hearing be held before staff, then an audiotape of the public hearing and a staff-prepared summary of comments received at the public hearing shall be made available to the Board members in advance of the meeting at which action on the pending matter is scheduled.

5 CCR 18460
EC 33031
GC 11125

COPIES OF STATEMENTS

Section 2.

A written copy of the testimony a person wishes to present at a public hearing is requested, but not required. The written copy may be given to appropriate staff in advance of or at the public hearing.

TIME LIMITS FOR THE PRESENTATION OF PUBLIC TESTIMONY

Section 3.

At or before a public hearing, the presiding individual shall (in keeping with any legal limitation or condition that may pertain) determine the total amount of time that will be devoted to hearing oral comments, and may determine the time to be allotted to each person or to each side of an issue.

5 CCR 18463
EC 33031

WAIVER BY PRESIDING INDIVIDUAL

Section 4.

At any time, upon a showing of good cause, the presiding individual may waive any time limitation established under Section 3 of this article.

5 CCR 18464
EC 33031

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ARTICLE VIII

Public Hearings: School District Reorganization

SUBMISSION OF PROPOSALS AND PETITIONS

Section 1.

A proposal by a county committee on school district organization or other public agency, or a petition for the formation of a new district or the transfer of territory of one district to another shall be submitted to the executive officer of the Board. The executive officer of the Board shall cause the proposal or petition to be:

- reviewed and analyzed by the California Department of Education;
- set for hearing before the Board (or before staff if so directed by the Board) at the earliest practicable date; and
- transmitted together with the report and recommendation of the Department of Education to the Board (or to the staff who may be directed by the Board to conduct the hearing) and to such other persons as is required by law not later than ten days before the date of the hearing.

CCR 18570

ARGUMENTS BEFORE THE BOARD: ORIGINAL SUBMISSION

Section 2.

At the time and place of hearing, the Board (or staff if so directed by the Board) will receive oral or written arguments on the proposal or petition. The presiding individual may limit the number of speakers on each side of the issue, limit the time permitted for the presentation of a particular view, and limit the time of the individual speakers. The presiding individual may ask that speakers not repeat arguments previously presented.

CCR 18571

RESUBMISSION OF THE SAME OR AN ESSENTIALLY IDENTICAL PROPOSAL OR PETITION

Section 3.

If the same or an essentially identical proposal or petition has been previously considered by the Board, the documents constituting such a resubmission shall be accompanied by a written summary of any new factual situations or facts not previously presented. In this case, any hearing shall focus on arguments not theretofore presented and hear expositions of new factual situations and of facts not previously entered into the public record.

CCR 18572

STATEMENTS

Section 4.

All statements are requested to be submitted to the Board (or to staff if so directed by the Board) in advance of the presentation.

Statements are requested to be in writing and should only be summarized in oral testimony.

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ARTICLE IX

Public Records

Public records of the Board shall be available for inspection and duplication in accordance with law, including the collection of any permissible fees for research and duplication.

GC 6250 et seq

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ARTICLE X

Parliamentary Authority

RULES OF ORDER

Section 1.

Debate and proceedings shall be conducted in accordance with Robert's Rules of Order (Newly Revised) when not in conflict with rules of the Board and other statutory requirements.

Section 2.

Members of the public or California Department of Education staff may be recognized by the president of the Board or other presiding individual, as appropriate, to speak at any meeting. Those comments shall be limited to the time determined by the president or other presiding individual. All remarks made shall be addressed to the president or other presiding individual. In order to maintain appropriate control of the meeting, the president or other presiding individual shall determine the person having the floor at any given time and, if discussion is in progress or to commence, who may participate in the discussion.

Section 3.

All speakers shall confine their remarks to the pending matter as recognized by the president or other presiding individual.

Section 4.

Public speakers shall not directly question members of the Board, the State Superintendent, or staff without express permission of the president or other presiding individual, nor shall Board members, the State Superintendent, or staff address questions directly to speakers without permission of the president or other presiding individual.

Section 5.

The Chief Counsel to the Board or the General Counsel of the California Department of Education, or a member of the Department's legal staff in the absence of the Board’s Chief Counsel, will serve as parliamentarian. In the absence of legal staff, the president or other presiding individual will name a temporary replacement if necessary.

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ARTICLE XI

Board Appointments

ADVISORY BODIES

Section 1.

Upon recommendation of the Screening Committee as may be necessary, the Board appoints members to the following advisory bodies for the terms indicated:

(a) Advisory Commission on Special Education. The Board appoints five of 17 members to serve four-year terms.

EC 33590

(b) Curriculum Development and Supplemental Materials Commission. The Board appoints 13 of 18 members to serve four-year terms.

EC 33530

(c) Child Nutrition Advisory Council. The Board appoints 13 members, 12 to three-year terms and one student representative to a one-year term. By its own action, the Council may provide for the participation in its meetings of non-voting representatives of interest groups not otherwise represented among its members, such as school business officials and experts in the area of physical education and activity.

EC 49533

(d) Advisory Commission on Charter Schools. The Board appoints eight members to two-year terms.

EC 47634.2(b)(1)
State Board of Education Policy 01-04

OTHER APPOINTMENTS

Section 2.

On the Board's behalf, the president makes the following appointments:

(a) WestEd (Far West Laboratory for Educational Research and Development). Five individuals to serve three-year terms on the Board of Directors as follows:

- one representing the California Department of Education;
- two representing school districts in California; and
- two representing county offices of education in California.

JPA-FWL

(b) Trustees of the California State Summer School for the Arts. Two members, one of whom shall be a current member of the Board, for terms of three years.

EC 8952.5

(c) No Child Left Behind Liaison Team. Two members for terms not to exceed two years.

EC 52058.1

SCREENING AND APPOINTMENT

Section 3.

Opportunities for appointment shall be announced and advertised as appropriate, and application materials shall be made available to those requesting them. The Screening Committee shall paper-screen all applicants, interview candidates as the Committee determines necessary, and recommend appropriate action to the Board.

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ARTICLE XII

Presidential Appointments

LIAISONS

Section 1.

The president shall appoint one Board member, or more where needed, to serve as liaison(s) to:

(a) The Advisory Commission on Special Education;
(b) The Curriculum Development and Supplemental Materials Commission;
(c) The National Association of State Boards of Education, if the Board participates in that organization.
(d) The Commission on Teacher Credentialing.
(e) The California Postsecondary Education Commission: one member to serve as the president's designee if the president so chooses, recognizing that no person employed full-time by any institution of public or private postsecondary education may serve on the commission.

EC 66901(d) and (h)

OTHER

Section 2.

The president shall make all other appointments that may be required of the Board or that require Board representation.

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ARTICLE XIII

Amendment to the Bylaws

These Bylaws may be amended at any regular meeting of the Board, provided that the amendment has been submitted in writing at the previous regular meeting.

Abbreviations

Abbreviations used in these Bylaws, citing Board authority, are:

Abbreviation	Desccription
CC	Constitution of the State of California
CCR	California Code of Regulations
EC	California *Education Code*
GC	California Government Code
CFR	Code of Federal Regulations
JPA-FWL	Joint Powers Agreement Establishing the Far West Laboratory for Educational Research and Development, originally entered into by the State Board of Education on February 11, 1966, and subsequently amended

Dates of Adoption and Amendment

Status	Date
Adopted	April 12, 1985
Amended	February 11, 1987
Amended	December 11, 1987
Amended	November 11, 1988
Amended	December 8, 1989

Amended	December 13, 1991
Amended	November 13, 1992
Amended	February 11, 1993
Amended	June 11, 1993
Amended	May 12, 1995
Amended	January 8, 1998
Amended	April 11, 2001
Amended	July 9, 2003

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

Last Modified: Wednesday, July 27, 2011

Agenda--July 13-14, 2011

Agenda and other related materials for the California State Board of Education (SBE) meeting to be held on July 13-14, 2011.

State Board Members

Michael W. Kirst, President
Trish Williams, Vice President

James Aschwanden
Yvonne Chan
Carl Cohn
Aida Molina
James C. Ramos
Patricia A. Rucker
Ilene W. Straus

Secretary & Executive Officer

Hon. Tom Torlakson

Executive Director

Susan K. Burr

Schedule of Meeting	Location
Wednesday, July 13, 2011 9:00 a.m. Pacific Time ± STATE BOARD OF EDUCATION **Closed Session – IF NECESSARY** (The public may not attend.)	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 95814 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

Conference with Legal Counsel – Existing Litigation: Under *Government Code* sections 11126(e)(1) and (e)(2)(A), 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 in closed session:

- *Alejo, et al.* v. *Jack O'Connell, State Board of Education, et al.,* San Francisco Superior Court, Case No. CPF-09-50968
- *California School Boards Association, et al.* v. *California State Board of Education* and *Aspire Public Schools, Inc.* Alameda Superior Court, Case No. 07353566
- *California School Boards Association, et al.* v. *California State Board of Education, et al.* Sacramento Superior Court, Case No. 34-2008-00016957
- *California School Boards Association and its Education Legal Alliance, et al., v. The California State Board of Education, et al.,* Sacramento County Superior Court, Case No. 34-200800021188-CU-MC-GDS
- *Coachella Valley Unified School District, et. al., v. State of California, et. al.* Case No. CPF-05-505334
- *Doe, Jane, and Jason Roe v. State of California, Tom Torlakson, The California Department of Education, The State Board of Education,* Los Angeles Superior Court, Case No. BC445151
- *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 and related appeal
- *K.C. et al. v. Jack O'Connell, et al*., U.S. District Court, Northern District of California, Case No. C 05 4077 MMC

Opportunity for Learning – PB, LLC; Opportunities for Learning – C, LLC, and Opportunities for Learning WSH, LLC Notice of Appeal Before the Education Audit Appeals Panel

- *Options for Youth, et al., v. California Department of Education, et al.*, Los Angeles Superior Court Case No. BC 347454
- *Options of Youth, - Burbank, Inc., San Gabriel, Inc., Upland, Inc., and Victor Valley* Notice of Appeal Before the Education Audit Appeals Panel, OAH #2006100966
- *Perris Union High School District* v. *California State Board of Education, California Department of Education, et al.,* Riverside Superior Court Case No. RIC520862
- *Porter, et al.,* v. *Manhattan Beach Unified School District, et al.*, United States District Court, Central District, Case No. CV-00-08402
- *Reed* v. *State of California, Los Angeles Unified School District, State Superintendent of Public Instruction, Jack O'Connell, California Department of Education, and State Board of Education, et al*., Los Angeles Superior Court, Case No. BC432420
- *Rocklin Unified School District v. California State Board of Education*, Sacramento County Superior Court, Case No. 34-2009-80000220
- *Today's Fresh Start, Inc., v. Los Angeles County Office of Education, et al.,* Los Angeles County Superior Court, Case No. BS112656
- *Valenzuela, et al., v. Jack O'Connell, et al.,* Alameda Superior Court, Case No. JCCP 4468
- Case Name Unspecified: Disclosure of case names would jeopardize existing settlement negotiations

Conference with Legal Counsel – Anticipated Litigation: Under *Government Code* sections 11126(e)(1) and (e)(2)(B), the State Board of Education hereby provides public notice that it may meet in closed session to decide whether there is a significant exposure to litigation, and to consider and act in connection with matters for which there is a significant exposure to litigation. Under *Government Code* sections 11126(e)(1) and (e)(2)(C), the State Board of Education hereby provides public notice that it may meet in closed session to decide to initiate litigation and to consider and act in connection with litigation it has decided to initiate.

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, discipline, or release of public employees, or a complaint or charge against public employees. Public employees include persons exempt from civil service under Article VII, Section 4(e) of the California Constitution.

Schedule of Meeting	Location
Wednesday, July 13, 2011 9:00 a.m. Pacific Time ± (Upon Adjournment of Closed Session, if held.) STATE BOARD OF EDUCATION **Public Session**	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 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.

Schedule of Meeting	Location
Thursday, July 14, 2011 9:00 a.m. Pacific Time ± STATE BOARD OF EDUCATION **Closed Session – IF NECESSARY** (The public may not attend.)	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 95814 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.

Schedule of Meeting	Location

Thursday, July 14, 2011 9:00 a.m. Pacific Time ± (Upon Adjournment of Closed Session, if held.) STATE BOARD OF EDUCATION **Public Session**	**California Department of Education** 1430 N Street, Room 1101 Sacramento, California 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.

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, but not required, 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.

CALIFORNIA STATE BOARD OF EDUCATION

FULL BOARD AGENDA
Public Session

July 13, 2011

Wednesday, July 13, 2011 – 9:00 a.m. Pacific Time ±
(Upon adjournment of Closed Session if held)

California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

Call to Order

Salute to the Flag

Closed Session

Communications

Announcements

REPORT OF THE STATE SUPERINTENDENT

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

AGENDA ITEMS

Item 1 (DOC; 83KB; 5pp.)

California Department of Education staff prepared Item 1 and Attachments 1 through 3 for consideration by the State Board of Education.

Subject: Parent Empowerment — Approve Commencement of a Third 15-day Public Comment Period for Proposed Changes to the *California Code of Regulations*, Title 5, Sections 4800–4808.

Type of Action: Action, Information

- Item 1 Attachment 1 (DOC; 126KB; 29pp.)
- Item 1 Attachment 2 (DOC; 156KB; 28pp.)
- Item 1 Attachment 3 (DOC; 178KB; 27pp.)

State Board of Education (SBE) staff prepared Item 1 Addendum and Item 1 Addendum Attachment 1, which include SBE staff's recommendations of the parent empowerment proposed regulations based on direction provided by SBE leadership for SBE consideration.

- Item 1 Addendum (DOC; 43KB; 2pp.)
- Item 1 Addendum Attachment 1 (DOC; 100KB; 21pp.)

Item 2 (DOC; 77KB; 3pp.)

Subject: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs.

Type of Action: Action, Information

- Item 2 Attachment 2 (PDF; 1.9MB; 21pp.)
- Item 2 Addendum (DOC; 115KB; 16pp.)
- Item 2 Addendum Attachment 3 (XLS; 83KB; 21pp.)

Item 3 (DOC; 106KB; 10pp.)

Subject: Elementary and Secondary Education Act: School Improvement Grant: Approval of Renewal of Funding for Year 2 of Cohort 1 Fiscal Year 2009 Local Educational Agencies and Schools for the Sub-Grants Under Section 1003(g).

Type of Action: Action, Information

- Item 3 Addendum (DOC; 35KB; 1p.)
- Item 3 Addendum Attachment 1 (XLS; 76KB; 1p.)

Item 4 (DOC; 1.3MB; 5pp.)

Subject: Elementary and Secondary Education Act: Request a Waiver Under Title I, Part A Section 9401 to Carry Over 100 Percent of the Fiscal Year 2010 School Improvement Grant Allocation.

Type of Action: Action, Information

Item 5 (DOC; 157KB; 14pp.)

Subject: Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Additional Providers to the 2011-13 State Board of Education-Approved Supplemental Educational Services Provider List.

Type of Action: Action, Information

- Item 5 Addendum (DOC; 234KB; 11pp.)
- Item 5 Addendum Attachment 5 (PDF; 288KB; 17pp.)

Item 6 (DOC; 102KB; 10pp.)

Subject: Inclusion of Middle School Dropouts in the Academic Performance Index – Adopt Amendments to *California Code of Regulations,* Title 5, Section 1039.1.

Type of Action: Action, Information

Item 7 (DOC; 1.5MB; 34pp.)

Subject: California English Language Development Test Program: Approve Commencement of the Rulemaking Process for Amendments to the *California Code of Regulations,* Title 5, sections 11510 Through 11517.5.

Type of Action: Action, Information

- Item 7 Attachment 4 (PDF; 312KB; 4pp.)
    - Accessible Alternative Version (AAV) of Item 7 Attachment 4

WAIVER REQUEST CONSENT MATTERS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in the *Education Code* or in the *California Code of Regulations*, Title 5.

Charter School Program (Attendance Accounting for Multi-Track)

Item WC-1 General (DOC; 78KB; 4pp.)

Subject: Request by Moorpark Unified School District for IvyTech Charter School to waive *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (3 tracks; 175 days).

Waiver Number: 21-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-1 Attachment 1 (DOC; 74KB; 4pp.)
- Item WC-1 Attachment 2 (PDF; 62KB; 1p.)

Charter School Program (Pupil Teacher Ratio)

Item WC-2 General (DOC; 77KB; 3pp.)

Subject: Request by Capistrano Unified School District to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, Section 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from 25:1 to a 27.5:1 pupil-to-teacher ratio at Capistrano Connections Academy Charter School.

Waiver Number: 31-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-2 Attachment 1 (DOC; 65KB; 2pp.)

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

Item WC-3 Federal (DOC; 66KB; 2pp.)

Subject: Request by Fort Bragg Unified School District for Fort Bragg High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).

Waiver Number: Fed-61-2011

(Recommended for APPROVAL)

Item WC-3 Attachment 1 (DOC; 63KB; 1p.)

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

Item WC-4 Federal (DOC; 68KB; 2pp.)

Subject: Request by Shoreline Unified School District for Tomales High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).

Waiver Number: Fed-62-2011

(Recommended for APPROVAL)

- Item WC-4 Attachment 1 (DOC; 63KB; 1p.)

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

Item WC-5 Federal (DOC; 68KB; 2pp.)

Subject: Request by Sutter Union High School District for Sutter Union High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).

Waiver Number: Fed-60-2011

(Recommended for APPROVAL)

- Item WC-5 Attachment 1 (DOC; 65KB; 1p.)

Other Waivers (Other Waivers)

Item WC-6 General (DOC; 76KB; 3pp.)

Subject: Request by Rescue Union Elementary School District to waive a portion of California *Education Code* Section 37223, which relates to weekend makeup classes.

Waiver Number: 20-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-6 Attachment 1 (DOC; 77KB; 5pp.)

PETITION

Item WC-7 Petition (DOC; 72KB; 3pp.)

Subject: Petition request under California *Education Code* sections 60421(d) and 60200(g) for a renewal petition by Poway Unified School District to purchase specified non-adopted instructional materials for severely disabled children using Instructional Materials Funding Realignment Program monies.

Waiver Number: 58-4-2011

(Recommended for APPROVAL)

- Item WC-7 Attachment 1 (DOC; 75KB; 2pp.)

School Construction Bonds (Bond Indebtedness Limit - Non-Unified)

Item WC-8 General (DOC; 81KB; 3pp.)

Subject: Request by Moreland Elementary School District to waive California *Education Code* sections 15102 and 15268 to allow the district to exceed its bonded indebtedness limit of 1.25 percent of the taxable assessed value of property. (Requesting 1.57 percent)

Waiver Number: 5-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-8 Attachment 1 (DOC; 78KB; 4pp.)

School District Reorganization (Lapsation of a Small District)

Item WC-9 General (DOC; 85KB; 4pp.)

Subject: Request by La Grange Elementary School District to waive portions of California *Education Code* Section 35786 in its entirety, which requires a lapsation to be effective on the date of the lapsation order, and a portion of *Education Code* Section 35782, which requires a public hearing on lapsation to be conducted within 30 days of the close of the school year.

Waiver Number: 10-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-9 Attachment 1 (DOC; 91KB; 6pp.)

Schoolsite Council Statute (Shared Schoolsite Council)

Item WC-10 Specific (DOC; 68KB; 2pp.)

Subject: Request by Jamestown Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* 52852, allowing one joint schoolsite council to function for two small schools: Chinese Camp Elementary School and Jamestown Elementary School.

Waiver Number: 22-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-10 Attachment 1 (DOC; 71KB; 2pp.)

Schoolsite Council Statute (Shared Schoolsite Council)

Item WC-11 Specific (DOC; 65KB; 2pp.)

Subject: Request by Alview-Dairyland Union Elementary School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small rural schools: Alview Elementary School and Dairyland Elementary School.

Waiver Number: 49-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-11 Attachment 1 (DOC; 66KB; 2pp.)

Schoolsite Council Statute (Shared Schoolsite Council)

Item WC-12 Specific (DOC; 69KB; 2pp.)

Subject: Request by Terra Bella Union Elementary School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one schoolsite council to function for two schools: Terra Bella Elementary School and Carl F. Smith Middle School.

Waiver Number: 19-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-12 Attachment 1 (DOC; 70KB; 2pp.)

Schoolsite Council Statute (Shared Schoolsite Council with Reduced Number and Composition)

Item WC-13 Specific (DOC; 71KB; 3pp.)

Subject: Request by Madera County Office of Education under the authority of California *Education Code* Section 52863 for a waiver renewal of *Education Code* Section 52852, allowing three schoolsite councils to function for its small schools. The first schoolsite council would serve Challenger Elementary Community Day School and Discovery Secondary Community Day School. The second schoolsite council would serve Apollo Elementary Community Day School, Enterprise Intermediate School, Enterprise Secondary School, Endeavor Secondary School, and Voyager Secondary School. The third schoolsite council would serve Madera County Independent Academy and Pioneer Technical Charter School.

Waiver Number: 32-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-13 Attachment 1 (DOC; 74KB; 3pp.)

Special Education Program (Algebra I Requirement for Graduation)

Item WC-14 Specific (DOC; 67KB; 2pp.)

Subject: Request by Pleasanton Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010–11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.

Waiver Number: 18-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-14 Attachment 1 (DOC; 50KB; 1p.)

Special Education Program (Non Public Agency (NPA) or School (NPS) Annual Renewal of Certification)

Item WC-15 Specific (DOC; 65KB; 2pp.)

Subject: Request by West Orange County Special Education Local Plan Area under authority of California *Education Code* Section 56101 to waive *Education Code* Section 56366.1(h), the August through October 31 timeline for an annual certification renewal application, for Speech and Language Professional Services, a nonpublic agency.

Waiver Number: 31-5-2011

(Recommended for APPROVAL)

- Item WC-15 Attachment 1 (DOC; 64KB; 2pp.)

Special Education Program (Resource Teacher Caseload)

Item WC-16 Specific (DOC; 78KB; 3pp.)

Subject: Request by Santa Rita Union Elementary School District under authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Summer Prather is assigned to McKinnon Elementary School.

Waiver Number: 23-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item WC-16 Attachment 1 (DOC; 125KB; 4pp.)

State Testing Apportionment Report (CAHSEE)

Item WC-17 General (DOC; 86KB; 4pp.)

Subject: Request by nine local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.

Waiver Numbers: 11-3-2011, 19-4-2011, 27-3-2011, 28-4-2011, 35-3-2011, 38-3-2011, 41-4-2011, 114-1-2011, 203-12-2010.

(Recommended for APPROVAL)

- Item WC-17 Attachment 1 (XLS; 19KB; 1p.)
- Item WC-17 Attachment 2 (DOC; 49KB; 1p.)
- Item WC-17 Attachment 3 (PDF; 254KB; 1p.)
- Item WC-17 Attachment 4 (DOC; 56KB; 2pp.)
- Item WC-17 Attachment 5 (PDF; 311KB; 1p.)
- Item WC-17 Attachment 6 (DOC; 52KB; 1p.)
- Item WC-17 Attachment 7 (PDF; 672KB; 1p.)
- Item WC-17 Attachment 8 (DOC; 52KB; 1p.)
- Item WC-17 Attachment 9 (PDF; 664KB; 1p.)
- Item WC-17 Attachment 10 (DOC; 55KB; 1p.)
- Item WC-17 Attachment 11 (PDF; 649KB; 1p.)
- Item WC-17 Attachment 12 (PDF; 641KB; 1p.)
- Item WC-17 Attachment 13 (DOC; 54KB; 1p.)
- Item WC-17 Attachment 14 (PDF; 630KB; 1p.)
- Item WC-17 Attachment 15 (DOC; 51KB; 1p.)
- Item WC-17 Attachment 16 (PDF; 588KB; 1p.)
- Item WC-17 Attachment 17 (DOC; 52KB; 1p.)
- Item WC-17 Attachment 18 (PDF; 804KB; 1p.)
- Item WC-17 Attachment 19 (DOC; 52KB; 1p.)
- Item WC-17 Attachment 20 (PDF; 788KB; 1p.)

NON-CONSENT (ACTION)

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken.

Class Size Penalties (Over Limit on Grades 4-8)

Item W-1 General (DOC; 78KB; 3pp.)

Subject: Request by eight districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.

Waiver Numbers: 3-4-2011, 25-4-2011, 9-5-2011, 32-4-2011, 4 5 2011, 55-4-2011, 17-4-2011, and 86-2-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-1 Attachment 1 (XLS; 19KB; 1p.)
- Item W-1 Attachment 2 (DOC; 71KB; 3pp.)
- Item W-1 Attachment 3 (DOC; 75KB; 4pp.)
- Item W-1 Attachment 4 (DOC; 131KB; 4pp.)
- Item W-1 Attachment 5 (DOC; 63KB; 2pp.)
- Item W-1 Attachment 6 (DOC; 76KB; 4pp.)
- Item W-1 Attachment 7 (DOC; 70KB; 3pp.)
- Item W-1 Attachment 8 (DOC; 64KB; 4pp.)
- Item W-1 Attachment 9 (DOC; 66KB; 3pp.)

Class Size Penalties (Over limit on Kindergarten - Grade 3)

Item W-2 Specific (DOC; 75KB; 3pp.)

Subject: Request by three districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32.

Waiver Numbers: 26-4-2011, 3-5-2011 and 27-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-2 Attachment 1 (XLS; 17KB; 1p.)
- Item W-2 Attachment 2 (DOC; 82KB; 5pp.)
- Item W-2 Attachment 3 (DOC; 81KB; 4pp.)
- Item W-2 Attachment 4 (DOC; 84KB; 5pp.)

Class Size Penalties (Over limit on Grades 1-3)

Item W-3 Specific (DOC; 75KB; 3pp.)

Subject: Request by San Jacinto Unified School District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) relating to class size penalties for grades one through three. For grades one through three, the overall class size average is 30 to one with no class larger than 32.

Waiver Number: 7-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-3 Attachment 1 (XLS; 18KB; 1p.)
- Item W-3 Attachment 2 (DOC; 85KB; 4pp.)

Equity Length of Time (Equity Length of Time)

Item W-4 General (DOC; 78KB; 3pp.)

Subject: Request by Tustin Unified School District to waive *Education Code* Section 37202, the equity length of time requirement for A. G. Currie Middle School (due to a longer day for intervention).

Waiver Number: 1-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-4 Attachment 1 (DOC; 62KB; 3pp.)

School District Reorganization (Elimination of Election Requirement)

Item W-5 General (DOC; 74KB; 3pp.)

Subject: Request by Lemoore Union High School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, which require a district-wide election to establish new trustee areas.

Waiver Number: 140-1-2011

(Recommended for APPROVAL)

- Item W-5 Attachment 1 (DOC; 77KB; 6pp.)

School District Reorganization (Lapsation of a Small District)

Item W-6 General (DOC; 84KB; 4pp.)

Subject: Request by Santa Barbara County Office of Education to waive portions of California *Education Code* sections 35576, 35782, and 35784 to allow removal of required timelines for the lapsation of a district and to provide a more equitable allocation of

existing bonded indebtedness after lapsation.

Waiver Number: 14-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-6 Attachment 1 (DOC; 72KB; 4pp.)

School District Reorganization (Size of Governing Board)

Item W-7 General (DOC; 76KB; 4pp.)

Subject: Request by Bass Lake Joint Union Elementary District to waive California *Education Code* Section 5020 that requires a district-wide election to reduce the number of governing board members from seven to five.

Waiver Number: 29-4-2011

(Recommended for APPROVAL)

- Item W-7 Attachment 1 (DOC; 75KB; 4pp.)

Schoolsite Council Statute (Number and Composition of Members)

Item W-8 Specific (DOC; 63KB; 2pp.)

Subject: Request by Bend Elementary School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Bend Elementary School.

Waiver Number: 6-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-8 Attachment 1 (DOC; 75KB; 2pp.)

Schoolsite Council Statute (Number and Composition of Members)

Item W-9 Specific (DOC; 64KB; 2pp.)

Subject: Request by Taft Union High School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small continuation high school, Buena Vista Continuation High School.

Waiver Number: 64-2-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-9 Attachment 1 (DOC; 75KB; 2pp.)

Schoolsite Council Statute (Shared Schoolsite Council with Reduced Number and Composition)

Item W-10 Specific (DOC; 68KB; 3pp.)

Subject: Request by Gerber Union Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint school site council with a reduced number and composition to function for two small schools: Gerber Union Elementary School and Gerber Community Day School.

Waiver Number: 46-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-10 Attachment 1 (DOC; 73KB; 2pp.)

Special Education Program (Algebra I Requirement for Graduation)

Item W-11 Specific (DOC; 69KB; 2pp.)

Subject: Request by Hayward Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for three special education students based on *Education Code* Section 56101, the special education waiver authority.

Waiver Number: 11-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-11 Attachment 1 (DOC; 53KB; 1p.)

Special Education Program (Algebra I Requirement for Graduation)

Item W-12 Specific (DOC; 68KB; 2pp.)

Subject: Request by Manteca Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.

Waiver Number: 10-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-12 Attachment 1 (DOC; 50KB; 1p.)

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

Item W-13 General (DOC; 98KB; 6pp.)

Subject: Request by Imperial County Office of Education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Alejandra Larios Ramirez to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum requirements.

Waiver Number: 56-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-13 Attachment 1 (DOC; 61KB; 2pp.)
- Item W-13 Attachment 2 (PDF; 1.6MB; 2pp.)

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

Item W-14 General (DOC; 134KB; 9pp.)

Subject: Request by Shasta County Office of Education for a renewal to waive *California Code of Regulations,* Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Christina Coburn, Diana Davis, Aleah Nishizaki, Barbara Wolf, and Sarah Wood to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum qualifications.

Waiver Numbers: 45-4-2011, 46-4-2011, 47-4-2011, 49-4-2011, and 50-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-14 Attachment 1 (DOC; 64KB; 3pp.)
- Item W-14 Attachment 2 (DOC; 63KB; 3pp.)
- Item W-14 Attachment 3 (DOC; 63KB; 3pp.)
- Item W-14 Attachment 4 (DOC; 62KB; 3pp.)
- Item W-14 Attachment 5 (DOC; 62KB; 3pp.)

Special Education Program (Extended School Year (Summer School))

Item W-15 General (DOC; 69KB; 2pp.)

Subject: Request by Mariposa County Office of Education to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students.

Waiver Number: 16-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-15 Attachment 1 (DOC; 62KB; 2pp.)

Special Education Program (Use of Funds for Low Incidence Disabilities)

Item W-16 Specific (DOC; 67KB; 3pp.)

Subject: Request by East Valley, Fontana Unified, and San Bernardino City Unified Special Education Local Plan Areas under authority of California *Education Code* Section 56101 for a renewal to waive *Education Code* Section 56836.22(d) to allow ten percent of state low incidence funds to be utilized for the purchase of assistive technology/materials for assessment and trial use prior to purchasing specific items for specific identified students.

Waiver Number: 1-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-16 Attachment 1 (DOC; 72KB; 3pp.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-17 General (DOC; 79KB; 4pp.)

Subject: Request by Coachella Valley Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Cahuilla Desert Academy and Toro Canyon Middle School (requesting 24.9 student ratio on average in core classes in grades seven and eight at Cahuilla Desert Academy and 24.6 at Toro Canyon Middle School).

Waiver Number: 23-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-17 Attachment 1 (DOC; 84KB; 4pp.)
- Item W-17 Attachment 2 (PDF; 3.7MB; 3pp.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-18 General (DOC; 81KB; 4pp.)

Subject: Request by Compton Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at McKinley Elementary School (requesting 25:1 ratio on average in core classes in grade five).

Waiver Number: 131-2-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-18 Attachment 1 (DOC; 78KB; 2pp.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-19 General (DOC; 80KB; 4pp.)

Subject: Request by Farmersville Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Snowden Elelmentary School, Freedom Elementary School, and Farmersville Junior High School (requesting 25:1 average in core classes in grades two through eight).

Waiver Number: 39-3-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-19 Attachment 1 (DOC; 149KB; 4pp.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-20 General (DOC; 79KB; 4pp.)

Subject: Request by King City Union School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010-2011 school year at Del Rey Elementary School and Santa Lucia Elementary School (requesting waiver of all Quality Education Investment Act class size reduction requirements).

Waiver Number: 52-4-2011

(Recommended for DENIAL)

- Item W-20 Attachment 1 (DOC; 86KB; 4pp.)
- Item W-20 Attachment 2 (PDF; 593KB; 1p.)
- Item W-20 Attachment 3 (PDF; 355KB; 1p.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-21 General (DOC; 81KB; 4pp.)

Subject: Request by Taft City School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Lincoln Junior High School (requesting 23:1 ratio on average in core classes in grades six through eight, and 35:1 on average in non-core classes in grade six through eight).

Waiver Number: 53-4-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-21 Attachment 1 (DOC; 67KB; 2pp.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-22 General (DOC; 82KB; 4pp.)

Subject: Request by West Contra Costa Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at John F. Kennedy High School (requesting 24.5:1, 24.4:1, 24:1, and 21:1 ratio on average in core classes in grades nine, ten, eleven, and twelve).

Waiver Number: 121-2-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-22 Attachment 1 (DOC; 73KB; 3pp.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-23 General (DOC; 80KB; 4pp.)

Subject: Request by West Contra Costa Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Helms Middle School (requesting 24.7:1 ratio on average in core classes in grade seven and 25:1 ratio in grade eight).

Waiver Number: 122-2-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-23 Attachment 1 (DOC; 85KB; 3pp.)

Quality Education Investment Act (Class Size Reduction Requirements)

Item W-24 General (DOC; 80KB; 4pp.)

Request by San Diego Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce their class sizes by an average of five students per class by the end of the 2010–11 school year at Roosevelt International Baccalaureate Middle School (requesting 20.9:1 ratio on average in core classes in grade six, 20.7:1 in grade seven, and 21.1:1 for grade eight).

Waiver Number: 16-5-2011

(Recommended for APPROVAL WITH CONDITIONS)

- Item W-24 Attachment 1 (DOC; 145KB; 8pp.)

Quality Education Investment Act (Money to Follow Identified Students)

Item W-25 General (DOC; 75KB; 3pp.)

Subject: Request by Los Angeles Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from Carver Middle School and Los Angeles Academy Middle School to follow identified students who will be transferring to one new school, Central Region Middle School #7 to ensure that they will not lose the benefits of the Quality Education Investment Act.

Waiver Number: 34-10-2010

(Recommended for DENIAL)

- Item W-25 Attachment 1 (DOC; 87KB; 5pp.)

Quality Education Investment Act (Money to Follow Identified Students)

Item W-26 General (DOC; 80KB; 4pp.)

Subject: Request by Los Angeles Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from San Fernando Middle School and Lincoln High School to follow identified students who will be transferring to San Fernando Institute of Applied Learning and Leadership in Entertainment and Media Arts to ensure that they will not lose the benefits of the Quality Education Investment Act.

Waiver Number: 71-10-2010

(Recommended for DENIAL)

- Item W-26 Attachment 1 (DOC; 71KB; 3pp.)

Item 8 (DOC; 129KB; 6pp.)

Subject: Assignment of Numbers for Charter School Petitions.

Type of Action: Action, Information

- Item 8 Addendum (DOC; 46KB; 1p.)

Item 9 (DOC; 127KB; 4pp.)

Subject: Approval of 2010-11 Consolidated Applications.

Type of Action: Action, Information

Item 10 (DOC; 69KB; 5pp.)

Subject: State Instructional Materials Fund – Approve Tentative Encumbrances and Allocations for Fiscal Year 2011-12.

Type of Action: Action, Information

Item 11 (DOC; 204KB; 7pp.)

Subject: Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.

Type of Action: Action, Information

Item 12 (DOC; 621KB; 22pp.)

Subject: School Accountability Report Card: Approval of the 2010–11 Template.

Type of Action: Action, Information

Item 13 (DOC; 56KB; 1p.)

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.

Type of Action: Action, Information

*****ADJOURNMENT OF DAY'S SESSION*****

Public Session

July 14, 2011

Thursday, July 14, 2011 – 9:00 a.m. Pacific Time ±
(Upon adjournment of Closed Session if held)

California Department of Education
1430 N Street, Room 1101
Sacramento, California 95814

Call to Order

Salute to the Flag

Closed Session

Communications

Announcements

REPORT OF THE STATE SUPERINTENDENT

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

AGENDA ITEMS

Item 14 (DOC; 101KB; 12pp.)

Subject: Update and Discussion on the Activities of the California Department of Education and State Board of Education Regarding Implementation of the Common Core State Standards.

Type of Action: Action, Information

Item 15 (DOC; 70KB; 2pp.)

Subject: STATE BOARD PROJECTS AND PRIORITIES.

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

Type of Action: Action, Information

- Item 15 Attachment 1 (DOC; 90KB; 3pp.)
- Item 15 Attachment 2 (DOC; 204KB; 10pp.)
- Item 15 Attachment 3 (DOC; 33KB; 1p.)
- Item 15 Attachment 4 - Item Addendum (DOC; 44KB; 1p.)
    - Item 15 Attachment 4 - Item Addendum A (**Updated** 14-Jul-2011; DOC; 291KB; 38pp.)
    - Item 15 Attachment 4 - Item Addendum B (DOC; 130KB; 17pp.)
    - Item 15 Attachment 4 - Item Addendum C (DOC; 73KB; 6pp.)
    - Item 15 Attachment 4 - Item Addendum D (DOC; 269KB; 43pp.)
    - Item 15 Attachment 4 - Item Addendum E (DOC; 139KB; 21pp.)
    - Item 15 Attachment 4 - Item Addendum F (DOC; 67KB; 7pp.)
    - Item 15 Attachment 4 - Item Addendum G (DOC; 125KB; 19pp.)
    - Item 15 Attachment 4 - Item Addendum H (DOC; 76KB; 8pp.)
    - Item 15 Attachment 4 - Item Addendum I (DOC; 131KB; 16pp.)
    - Item 15 Attachment 4 - Item Addendum J (DOC; 118KB; 15pp.)
    - Item 15 Attachment 4 - Item Addendum K (DOC; 174KB; 24pp.)

Item 16 (DOC; 61KB; 3pp.)

Subject: Review of Chronic Absence Data in Early Grades to Reduce the Number of California Dropouts.

Type of Action: Action, Information

- Item 16 Attachment 1 (PDF; 457KB; 21pp.)
- Item 16 Attachment 2 (PDF; 831KB; 3pp.)

Item 17 (DOC; 10MB; 66pp.)

Subject: Proposed Formation of the Bonsall Unified School District from the Bonsall Union School District and that Portion of the Fallbrook Union High School District in San Diego County.

Type of Action: Action, Information

*****PUBLIC HEARINGS*****

A Public Hearing on the following agenda items will commence no earlier than 1:00p.m. on Thursday, July 14, 2011. The Public Hearing will be held as close to 1:00 p.m. as the business of the State Board permits.

Item 18 (DOC; 82KB; 4pp.)

Subject: Kingsburg Elementary Charter School District: Consideration of Petition to Renew Districtwide Charter.

Type of Action: Action, Information, Hearing

- Item 18 Attachment 1 (DOC; 505KB; 37pp.)
- Item 18 Attachment 2 (DOC; 1.0MB; 39pp.)

Item 19 (DOC; 69KB; 4pp.)

Subject: California College, Career, and Technical Education Center: Consider Issuing a Notice of Violation Pursuant to *Education Code* Section 47607(d).

Type of Action: Action, Information, Hearing

- Item 19 Attachment 1 (DOC; 126KB; 4pp.)

*****END OF PUBLIC HEARINGS*****

Item 20 (DOC; 802KB; 86pp.)

Subject: Request for Proposals, Evaluation of California's Public Charter Schools Grant Program, 2010-2015.

Type of Action: Action, Information

Item 21 (DOC; 302KB; 49pp.)

Subject: Charter Renewal: Approve Commencement of Third 15-Day Public Comment Period for Proposed Changes to the *California Code of Regulations,* Title 5, sections 11966.5, and 11967.

Type of Action: Action, Information

- Item 21 Attachment 4 (PDF; 414KB; 4pp.)
    - Accessible Alternative Version (AAV) of Item 21 Attachment 4

Item 22 (DOC; 80KB; 5pp.)

Subject: Charter Revocation and Revocation Appeals – Approve Commencement of a Third 15-Day Public Comment Period for Proposed Amendments to *California Code of Regulations*, Title 5, sections 11965, 11968.1, 11968.5.1, 11968.5.2, 11968.5.3, 11968.5.4, 11968.5.5, and 11969.1 and Authorize a Request to the Office of Administrative Law for an Extension of the 120-Day Deadline to Resubmit the Rulemaking File.

Type of Action: Action, Information

- Item 22 Attachment 1 (DOC; 57KB; 7pp.)
- Item 22 Attachment 2 (PDF; 312KB; 17pp.)
- Item 22 Attachment 3 (PDF; 2MB; 13pp.)
- Item 22 Attachment 4 (PDF; 984KB; 4pp.)
    - Accessible Alternative Version (AAV) of Item 22 Attachment 4

Item 23 (DOC; 154KB; 9pp.)

Subject: Consideration of Requests for Determination of Funding Rates as Required for Nonclassroom-based Charter Schools for Ecademy California, Shenandoah Charter, William Finch Charter, Innovations Academy, and Charter School of San Diego.

Type of Action: Action, Information

Item 24 (DOC; 202KB; 16pp.)

Subject: Consideration of Requests From Nonclassroom-based Charter Schools for "Reasonable Basis"/Mitigating Circumstances Changes in Funding Determinations Based on the *California Code of Regulations*, Title 5, Section 11963.4(e) for Academy of Personalized Learning, Golden Valley Virtual Charter, California Virtual Academy Los Angeles, Mark West Charter, Merced Scholars

Charter, Mountain Peak Charter, Independence Charter and Sherman Thomas Charter.

Type of Action: Action, Information

- Item 24 Attachment 3 (PDF; 230KB; 1p.)
- Item 24 Attachment 4 (PDF; 284KB; 2pp.)
- Item 24 Attachment 5 (PDF; 263KB; 2pp.)
- Item 24 Attachment 6 (PDF; 974KB; 2pp.)
- Item 24 Attachment 7 (PDF; 285KB; 2pp.)
- Item 24 Attachment 8 (PDF; 245KB; 1p.)
- Item 24 Attachment 9 (PDF; 260KB; 2pp.)
- Item 24 Attachment 10 (PDF; 1MB; 1p.)

*****ADJOURNMENT OF MEETING*****

For more information concerning this agenda, please contact the State Board of Education 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 **[http://www.cde.ca.gov/be/ag/].**

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

Last Reviewed: Thursday, July 14, 2011

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 1

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Parent Empowerment — Approve Commencement of a Third 15-day Public Comment Period for Proposed Additions to the *California Code of Regulations*, *Title 5*, Sections 4800–4808.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

It is recommended that the State Board of Education (SBE) take the following actions:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a third 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the third 15-day public comment period, the proposed regulations with changes are deemed adopted, and the California Department of Education (CDE) is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the third 15-day public comment period, CDE is directed to place the proposed regulations on the SBE's September 2011 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its April 2011 SBE meeting, the SBE voted to approve putting forth for public comment the changes proposed by CDE staff, suggested optional amendments proposed by an SBE Board member and stakeholder groups, and directed that the proposed changes be circulated for a second 15-day public comment period in accordance with the Administrative Procedure Act.

SUMMARY OF PREVIOUS (Cont.)

At its February 2011 SBE meeting, the SBE directed the CDE to convene a group of interested stakeholders to discuss emerging issues and topics resulting from submission of the first petition to a local educational agency (LEA) under the statute.

At its December 2010 SBE meeting, the SBE:

- Approved the proposed changes to the proposed regulations and directed that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;

- If no relevant comments to the proposed changes were received during the 15-day public comment period, the proposed regulations with changes were deemed adopted, and the CDE was directed to complete the rulemaking package and submit it to the OAL for approval;

- If any relevant comments to the proposed changes were received during the 15-day public comment period the CDE was directed to place the proposed regulations on the SBE's January 2011 Agenda for action; and

- Authorized the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

At its September 2010 SBE meeting, the SBE:

- Approved the commencement of the rulemaking process seeking to amend the *California Code of Regulations, Title 5* (*5 CCR*)*,* sections 4800 through 4808 (inclusive)

- Approved the Notice of Proposed Rulemaking

- Approved the Initial Statement of Reasons

- Approved the proposed regulations

- Directed the CDE to commence the rulemaking process

In addition, the SBE added a new section to the beginning of the regulations to read as follows: "It was the intent of the Legislature and remains the intent of the SBE for Parent Empowerment to remain valid in the event of changes to federal law referenced within the legislative language of the Senate Bill X5 4 to the extent allowable under the law."

SUMMARY OF KEY ISSUES

Parent Empowerment, as set forth in California *Education Code* (*EC*) sections 53300–53303, inclusive (SBX5 4 [Romero]), was signed into law on January 7, 2010, and became effective on April 12, 2010. These provisions provide parents of pupils who are or will be enrolled in a school that is not identified as a "persistently lowest-achieving school" pursuant to *EC* Section 53201, but is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (ESEA) 20 *United States Code* (*U.S.C.)* Section 6301 et seq., has failed to make adequate yearly progress and has an Academic Performance Index score of less than 800, the option to petition the LEA to implement reform in the school.

The options for reform include, and are limited to, the four interventions identified in paragraphs (1) to (4), inclusive, of *EC* Section 53202(a) and the federally mandated alternative governance arrangement pursuant to section 1116(b)(8)(B)(v) of the federal ESEA (20 *U.S.C.* Section 6301 et seq.).

CDE staff, on behalf of the SBE, held a public hearing on November 17, 2010, from 1:30 to 2:19 p.m. At the public hearing, four participants provided written and oral statements on the proposed regulations. At the close of the public comment period on November 17, 2010, at 5 p.m., a total of 16 public comment submissions were received, with a total of 145 comments.

Upon approval at the December 15, 2010, SBE meeting, CDE staff was directed to circulate the proposed regulations for a 15-day comment period which commenced on December 23, 2010, and ended on January 6, 2011, at 5 p.m. Eleven individuals submitted their comments.

Consistent with the SBE's direction at the February Board meeting, CDE staff convened a group of interested stakeholders on February 22, 2011. The group discussed emerging issues and topics resulting from submission of the first petition to an LEA under the statute, identified topics in the statute that may benefit from regulatory clarification, and sought to gain an understanding of conflicting points of view regarding the operationalization of the statute. A second meeting of the group was held on March 30, 2011. On that day, the group of interested stakeholders, along with members of the public, discussed the proposed regulations approved by the SBE at its December meeting and rendered suggestions on the substance and format of those regulations.

Attachment 1 is the proposed Amendments to *CCR*, Title 5, Sections 4800-4808.

Attachment 2 is the proposed amendments to *CCR*, Title 5, Sections 4800–4808 without historical edits, highlighting, and formatting. These have been removed for ease of reading. Only current proposed options remain highlighted.

Attachment 3 is the Decision Points document prepared by CDE staff and provides an overview of changes, comments, and regulatory options the SBE may want to consider.

SUMMARY OF KEY ISSUES (Cont.)

Attachment 4 is *EC* Sections 53300–53303.

FISCAL ANALYSIS (AS APPROPRIATE)

None.

ATTACHMENT(S)

Attachment 1: Proposed Additions to *California Code of Regulations*, Title 5, Sections 4800–4808 (29 Pages)

Attachment 2: Copy of *California Code of Regulations*, Title 5, Sections 4800–4808 without historical edits, highlighting, and formatting (28 Pages)

Attachment 3: Decision Points (27 Pages)

Attachment 4: California *Education Code* Sections 53300–53303 (1 Page)

SBE Executive Staff will provide an Item Addendum. Attachment 1 of the Item Addendum will include a composite document that includes *California Code of Regulations*, Title 5, sections 4800 to 4808.

California *Education Code* Sections 53300–53303

53300. For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph(7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

53301. (a) The local educational agency shall notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition.
(b) If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

53302. No more than 75 schools shall be subject to a petition authorized by this article.
(b) A petition shall be counted toward this limit upon the Superintendent and state board receiving notice from the local educational agency of its final disposition of the petition.

53303. A local educational agency shall not be required to implement the option requested by the parent petition if the request is for reasons other than improving academic achievement or pupil safety.

- The California Department of Education, on behalf of the State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is **bold underlined**; text proposed to be deleted is displayed in ~~**bold strikeout**~~.
- The 15-day text proposed to be added is in "**bold double underline**", deleted text is displayed in "~~**bold double strikeout**~~".
- The second 15-day text proposed to be added is in "shaded underline", deleted text is displayed in "~~shaded strikeout~~".
- Text proposed in brackets as OPTION or OPTIONAL, which illustrates language which the Board of Education is considering including in the regulations but has not determined whether to include or not and wishes to hear the comments of the public regarding its potential inclusion, are displayed as "*shaded italics underline*" and "~~*shaded italics strikethrough*~~".

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 5.2.5. Parent Empowerment

Subchapter 1. Parent Empowerment

Article 1. General Provisions

§ 4800. Intent.

~~**It was the intent of the Legislature and remains the intent of the State Board of Education (SBE) for**~~ **The Parent Empowerment provisions shall** ~~**to**~~ **remain valid in the event of changes to federal law referenced within the legislative language of Chapters 2 and 3 of the 5th Extraordinary Session Statutes of 2010,** ~~**Senate Bill X5 4**~~ **to the extent allowable under the law. NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code; and 20 U.S.C. Section 6316.**

§ 4800.1. Definitions.

(a) "Elementary school" means a school, regardless of the number of grade levels, whose graduates matriculate into **either** a subject **elementary,** middle or high school.

(b) "Eligible signature" means a signature of a parent or legal guardian of a pupil that can be counted toward meeting the requirement that at least

one-half of the parents or legal guardians of pupils have signed the petition as set forth in Education Code section 53300.

(c) "Final disposition" means the action taken by the local educational agency (LEA) to implement the requested intervention option presented by a petition or implement one of the other intervention options as set forth in Education Code section 53300.

(d)~~**(b)**~~ "High school" means four-year high schools~~**, junior high schools**~~, senior high schools, continuation high schools, and evening schools.

(e)~~**(d)**~~ "Intervention" or "requested intervention" means:

(1) one of the four interventions (turnaround model, restart model, school closure, and transformation model) identified pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Education Code section 53202 and as further described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Section Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009; or

(2) the alternative governance arrangement pursuant to Title 20 U.S.C. Section 6316(b)(8)(B)(v).

(f)~~**(c)**~~ "Middle school" means a school, regardless of the number of grade levels, whose graduates matriculate into a subject high school. Middle school also means a junior high school whose graduates matriculate into a subject senior high school.

(g) "Normally matriculate" means the typical pattern of attendance progression from an elementary school to a subject elementary school, from an elementary school to a subject middle or high **school or from a middle school to a subject high school, as determined by the LEA(s) pursuant to established attendance boundaries,** published **policies or practices** in place on the date the petition is submitted**.**

(h)~~**(e)**~~ "Parents or legal guardians of pupils" means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727 or Education Code section**s 56028 or** 56055, including foster parents **who**

hold rights to make educational decisions, on the date the petition is submitted.

(i)~~(f)~~ "Petition" means a petition requesting a**n ~~local educational agency~~** **~~(~~**LEA**~~)~~** to implement one of the interventions defined in subdivision **(e)~~(d)~~**.

(j)~~(g)~~ "Pupils attending the subject school or elementary or middle schools that normally matriculate into a subject middle or high school" means a pupil~~s~~ ~~attending~~ enrolled in the school on the date the petition is submitted to the LEA.

(k)~~(h)~~ "Subject school" means a school **~~not~~** identified **by the Superintendent of Public Instruction following the release of the annual adequate yearly progress report,** as a **~~persistently lowest-achieving~~** school **that: ~~under Education Code section 53201 which, after one full school year, is subject to corrective action pursuant to 20 U.S.C. Section 6316(b)(7) and continues to fail to make adequate yearly progress, and has an Academic Performance Index (API) score of less than 800.~~**

(1) Is not one of the persistently lowest-achieving schools identified by the SBE on March 11, 2010;

(2) Has been in corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act for at least one full academic year;

(3) Has failed to make adequate yearly progress (AYP); and

(4) Has an Academic Performance Index (API) score of less than 800.

[OPTIONAL NEW SUBSECTION(k)(5): A school that exits Program Improvement shall not be subject to continued identification on the Parent Empowerment list.]

(l) "Cannot implement the specific recommended option" means that an LEA is unable to implement the intervention requested in the petition and has ~~a compelling interest to support~~ provided in writing, during a regularly scheduled public meeting, the considerations, and reasons for reaching **such a finding.**

(m) "Matriculating School" means all elementary or middle schools that normally matriculate into a subject elementary, middle, or high school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53, **53201,** 53202**, ~~and~~** 53300, **53303, 56028 and 56055,** Education Code; and 20 U.S.C. Section 6316.

§ 4800.3. Requirement to Serve All Pupils.

Every pupil that attended a subject school prior to the implementation of an intervention shall continue to be enrolled in the school during and after an intervention is implemented pursuant to Education Code section 53300, unless the parent or legal guardian of the pupil chooses to enroll the pupil in another school or the school is closed. In addition, any pupil who resides in the attendance area of the subject school during or after the implementation of an intervention has a right to attend the school, subject to any laws or rules pertaining to enrollment.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300, Education Code.

§ 4800.5. Parental Notice.

Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Section~~.~~ 6301 et seq.), on the date the notice of restructuring planning or restructuring status, Program Improvement Year 4 or later, is given pursuant to federal law, the LEA shall provide the parents and guardians of all pupils enrolled in a school in restructuring planning or restructuring status with notice that the school may be eligible for a parent empowerment petition to request a specific intervention pursuant to Education Code section 53300. *[OPTION 1: The notice shall include the requirement that the LEA must hold at least two public hearings to notify staff, parents and the community of the school's designation and to seek input from staff, parents and the community regarding the option or options most suitable for the school. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be*

held on the site of a school deemed persistently lowest achieving.] **This notice shall provide the web site address for the California Department of Education to obtain further information on circulating a parent empowerment petition.** *[OPTION 2: Any information provided on CDE's website shall also be available in multiple languages.]* **This notice may also identify a web site at which the LEA may list the schools in the district subject to the provisions of the Parent Empowerment statutes, including enrollment data and attendance boundaries for each school. The web site may also ~~and~~ inform~~ing~~ parents and legal guardians of pupils how they may sign a petition requesting the school district to implement one or more interventions to improve the school and how they may contact community-based organizations or work with individual school administrators and parent and community leaders to understand the school intervention options and provide input about the best option for the school. This notice, and any other written communication from the school or the LEA to parents or legal guardians of pupils, must meet the language requirements of Education Code section 48985.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 48985 and 53300, Education Code; and 20 U.S.C. Section 6301.

§ 4801. Petition Signatures.

~~(a) A petition may only contain signatures of parents or legal guardians of pupils attending the subject school or a combination of signatures of parents or legal guardians of pupil(s) attending the subject school and all the elementary or middle schools that normally matriculate into a subject middle or high school. A petition may not consist solely of signatures of parents or legal guardians of pupils attending only the elementary or middle schools that normally matriculate into a subject middle or high school.~~

(a)~~(b)~~ **A petition may be signed by a parent or legal guardian once for each of his or her pupils attending the subject school or, if the petition contains a combination of signatures of parents or legal guardians of**

~~pupils attending the subject school and the elementary or middle schools that normally matriculate into a subject middle or high school, it may be signed by a parent or legal guardian once for each of his or her pupils attending the subject school or the elementary or middle schools that normally matriculate into the subject middle or high school.~~ A petition ~~must~~ shall **contain signatures of parents and ~~or~~ legal guardians of pupils attending the subject school**, or ~~and~~ **may contain** a combination of **signatures of parents** and ~~or~~ **legal guardians of pupils attending ~~only~~ the** ~~elementary or middle schools that normally matriculate into a the subject middle or high school~~ subject school and signatures of parents or legal guardians of pupils attending the matriculating schools. A petition may not consist solely of signatures of parents or legal guardians of pupils attending the matriculating schools.

(b)~~(c)~~ Only one parent or legal guardian **per pupil** may sign a petition.

(c)~~(d)~~ The petition must have boxes **~~with room~~ consecutively numbered commencing with number 1, with sufficient space** for the signature of each petition signer as well as his or her printed name, **~~address, city or unincorporated community name and zip code,~~** date, pupil's name, **the pupil's date of birth,** the name of the school the pupil is currently attending, and the pupil's current grade.

~~(1) The petition shall state that the disclosure of the address, city or unincorporated community name and zip code is voluntary, and cannot be made a condition of signing the petition.~~

(d)~~(e)~~ **~~The petition boxes referenced in subdivision (d) must be consecutively numbered commencing with the number 1 for each petition section.~~ The boxes described in subdivision** (c)~~(d)~~ **may also have space for the signer's address, city or unincorporated community name, and zip code, or request other information, and if so, the petition shall make clear that providing such information is voluntary, and cannot be made a condition of signing the petition.**

(e)~~(f) Because a~~ A petition may be signed by a parent or a legal guardian

once for each of his or her pupils attending the subject school or, if the petition contains a combination of signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into a subject middle or high school, once for each of his or her pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject middle or high school.~~,~~ S~~s~~eparate petition boxes must be completed by the parent or legal guardian for each of his or her pupils.

(f)~~(g)~~ A petition may be circulated and presented in sections, so long as each section complies with the requirements **~~of~~ set forth in** this section and section 4802 regarding the content of the petition.

(g)~~(h)~~ **Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition, except that signature gatherers may discuss educational related improvements hoped to be realized by implementing the requested intervention option. Signature gatherers,** students, school site staff, LEA staff, [OPTION 1: *community members]* and **parents and legal guardians shall be free from** harassment, **threats**, **and intimidation related to circulation or signature of a petition.** [OPTION 2: *Signature gatherers shall disclose if they are being paid, and shall not be paid per signature.]*

[OPTIONAL SUBSECTION(g) (in place of g above): Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition. Nor shall signature gatherers make any threats of coercive action, false statements or false promises of benefits to parents or legal guardians in order to persuade them to sign a petition, except that signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by implementing any intervention described in these regulations. Signature gatherers, students, school site staff, LEA staff, members of the community and parents and legal guardians shall be free from harassment, threats, and intimidation related to circulation or signature of a petition, or to the discouraging of signing a petition or to the revocation of signatures from the petition.]

[OPTIONAL NEW SUBSECTION(h): All parties involved in the signature gathering process shall adhere to all school site hours of operation, school and LEA safety policies, and visitor sign in and procedures.]

[OPTIONAL NEW SUBSECTION(i): School or district resources shall not be used to influence the signature gathering process.]

[OPTIONAL NEW SUBSECTION(j): This petition must meet the legal requirements of Education Code §48985.]

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300, Education Code.

§ 4802. Content of the Petition.

The petition ~~or~~ **and** each section of the petition shall contain the following elements:

(a) A heading which states that it is a Petition of Parents, Legal Guardians, and Persons Holding the Right to Make Educational Decisions for Pupils, Including Foster Parents **who hold rights to make educational decisions** to **request** ~~**Implement**~~ an Intervention **be implemented** at the specified subject school and to be submitted to a specified LEA;

(b) A statement that the petition seeks the signatures of the parents or legal guardians of the pupils attending the subject school or, in the alternative, the signatures of the parents or legal guardians of the pupils attending the subject school and the signatures of the parents or legal guardians of the pupils attending elementary or middle schools who would normally matriculate into the subject school;

(c)~~**(b)**~~ The name and public contact information of the person to be contacted by either persons interested in the petition or by the LEA;

(d)~~**(c)**~~ Identification of the requested intervention;

(e)~~**(d)**~~ A description of the requested intervention using the language set forth in either sections 4803, 4804, 4805, 4806, or 4807**, without omission to ensure full disclosure of the impact of the intervention**;

(f)~~(e)~~ The name of the subject school;

(g)~~(f)~~ Boxes as designated in section 4801(d) **and (e)**;

(h)~~(g)~~ An affirmation that the signing parent or legal guardian is requesting the LEA to implement the identified intervention at the subject school; and

(i)~~(h)~~ A request to an LEA to implement the restart model intervention identified pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 may *[OPTION 1: shall]* also request that the subject school be reopened under a specific charter school operator, charter management organization or education management organization **and, if so, that information must be clearly stated on the front page of the petition** *[OPTION 2: including contact information of the charter school operator, charter management organization or education management organization.] [OPTION 3: The petition shall also disclose that parents have the option of signing a petition that does not designate a specific charter school operator, charter management organization or education management organization]* **~~that has been selected by a rigorous review process~~**.

(j) The names of any agencies or organizations ~~that the person identified in subdivision (c) is affiliated with~~ **that are supporting the petition, either through direct financial assistance or in-kind contributions of staff and volunteer support, must be prominently displayed on the front page of the petition.**

[OPTIONAL NEW SUBSECTION(k): A petition requesting to implement the restart model intervention as a charter school model pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 and 4802.2, shall state that parent advisory committees or alternative programs if provided for in the LEA, will not be available in the restart model-charter school nor is the charter school required to comply with the parent waiver requirements of Education Code sections 310 and 311.

[OPTIONAL NEW SUBSECTION(l): The CDE shall develop a sample petition that can be used by interested petitioners. The sample petition shall be available on the CDE website and available for distribution by LEAs to interested

petitioners. The sample petition shall be available in other languages pursuant to Education Code Section 48985. Petitioners shall not be required to use the sample petition however alternate petitions must contain all required components pursuant to statutory and regulatory requirements.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code.

[OPTIONAL NEW SECTION §4802.05: Submission of Petition.

(a) Petitioners may not submit a petition until they reach or exceed the 50 percent threshold based on accurate and current enrollment data provided by the LEA. The date of submission of the petition shall be the start date for implementation of all statutory and regulatory requirements.

(b) An exception shall be made for a one-time resubmission opportunity to correct a petition based on errors identified by the LEA, verify signatures after a good faith effort is made by the LEA to do so first, or submit additional signatures. The start date for a resubmitted petition shall be the date it is resubmitted. No rolling petitions shall be accepted by the LEA.

(c) At the time of submission the petitioners shall submit a separate document that identifies at least one but no more than five lead petitioners with their contact information.

(d) The role of lead petitioners is to assist and facilitate communication between the parents who have signed the petition and the LEA. The lead petitioner contacts shall not be authorized to make decisions for the petitioners or negotiate on behalf of the parents.]

§ 4802.1. Verification of Petition Signatures and Obligations of the LEA.

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures

that would be required pursuant to section 4802.1(e).

(b)~~(a)~~ Upon receipt of the petition, the LEA may ~~make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations~~ match the information contained on the petition against existing enrollment records for accuracy. If a discrepancy is found, the LEA may contact the parents and legal guardians of pupils for verification purposes**. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school.** ~~An LEA shall not invalidate the signature of a parent or legal guardian of a pupil on a technicality where it is clearly the intent of the parent or legal guardian to support the petition and the parent or legal guardian is entitled to sign the petition.~~

(c)~~(b)~~ If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school.

(d)~~(c)~~ If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether at least one-half of the parents or legal guardians of all ~~students~~ pupils attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils ~~attending~~ enrolled in **the subject school on the date the petition is submitted to the LEA shall be counted.**

(e)~~(d)~~ If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the matriculating schools ~~elementary or middle schools that normally matriculate into the subject school~~**, then for purposes of calculating whether at least one-half of the parents or legal guardians of pupils** ~~attending~~ enrolled in **the subject school and the** matriculating schools ~~elementary or middle schools that normally matriculate into the subject school~~ **on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils**

~~attending~~ enrolled in **the subject school and the parents or legal guardians of pupils** ~~attending~~ enrolled in **the** ~~elementary or middle schools who would normally matriculate into the subject school~~ matriculating schools **at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether at least one-half of the parents or legal guardians of pupils have signed the petition. There is no specified ratio required of signatures gathered at each school, rather the total ratio of signatures gathered must meet the one-half requirement.**

(f)~~(e)~~ In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition.

(g)~~(f)~~ Upon receipt, the LEA may, within ~~20~~ 25 business days, return the petition to the person designated as the contact person as specified in section 4802(c), if the LEA determines any of the following:

(1) One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

(2) The school named in the petition is not a subject school; or

(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition. ~~and its supporting findings.~~

[OPTIONAL NEW SUBSECTION(g)(4): That the petition has not been translated into the number of languages as required by Education Code §48985.]

(h)~~(g)~~ If the petition is returned pursuant to section 4802.1(g)(1)**, the same petition may be resubmitted to the LEA with additional signatures as long as no** ~~substantive~~ **changes are made to the petition. If** ~~substantive~~ any **changes are made to the petition, it must be recirculated for signatures before it may be resubmitted to the LEA.**

(i)~~(g)~~ If the LEA does not return the petition pursuant to subdivision

(g)~~(f)~~, the LEA shall have 45 business days from the date the petition is received to reach a final disposition. The date may be extended by an additional 20 business days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

(j)~~(h)~~ The LEA shall notify the SSPI and the SBE in writing within ten business days of its receipt of a petition and within two business days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific recommended option, ~~including the compelling interest that supports such a finding,~~ **designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.**

(k)~~(i)~~ If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive on the same day **two or more notifications of final dispositions that agree to implement an intervention** ~~on the same day~~**, the petition will be chosen by random selection.]**

[OPTIONAL SECTION §4802.1 (in place of 4802.1 above):

§ 4802.1. Verification of Petition Signatures and Obligations of the LEA.

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

(b)~~(a)~~ Upon receipt of the petition, the LEA may make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations. The LEA and matriculating LEAs shall use common verification documents that contain parent or guardian signatures to verify petition signatures such as emergency verification cards signed by all parents or guardians. In order

to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school. The matriculating LEA or school shall be required to provide information necessary to the subject school and LEA in order to assist in verifying signatures. An LEA shall not invalidate the signature of a parent or legal guardian of a pupil on a minor technicality where it is clearly the intent of the parent or legal guardian to support the petition and the parent or legal guardian is entitled to sign the petition. The LEA and the matriculating LEA or school shall make a good faith effort to contact parents or guardians when a signature is not clearly identifiable including phone calls to the parent or guardian.

(c)~~(b)~~ If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school unless that school has exited federal Program Improvement and is at or over 800 on the Academic Performance Index.

(d)~~(c)~~ If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether parents or legal guardians of at least one-half of pupils ~~at least one-half of the parents or legal guardians of all students pupils~~ attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school on the date the petition is submitted to the LEA shall be counted.

(e)~~(d)~~ If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school, then for purposes of calculating whether ~~at least one-half of~~ the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school and the parents or legal

guardians of pupils attending the elementary or middle schools who would normally matriculate into the subject school at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether at least one-half of the parents or legal guardians of pupils have signed the petition. There is no specified ratio required of signatures gathered at each school, rather the total ratio of signatures gathered must meet the one-half requirement.

(f)~~(e)~~ In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition. The identified lead petitioners for the petition shall be consulted to assist in contacting parents or legal guardians when the LEA fails to reach a parent or legal guardian.

(g)~~(f)~~ Upon receipt, the LEA may, within ~~20 25 business~~ 40 calendar days, return the petition to the person designated as the contact person or persons as specified in section 4802(c), if the LEA determines any of the following:

(1) One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

(2) The school named in the petition is not a subject school; or

(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition and its supporting findings.

(h) If the LEA finds that sufficient signatures cannot be verified by the LEA they shall immediately notify the lead petitioner contacts and provide the lead petitioner the names of those parents and legal guardians they cannot verify. The lead petitioner contacts shall be provided 60 calendar days to assist the LEA to verify the signatures. A number of methods may be used including but not limited to an official notarization process or having the parent or guardian appear at the school or district office.

(i) If the LEA finds a discrepancy or problem with a submitted petition they shall notify the lead petition contacts in writing and request assistance and clarification prior to the final disposition of the petition. The LEA shall identify which signatures need verification, any errors found in the petition or need for further clarification regarding the petition.

(j)~~(h)(g)~~ If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with ~~additional~~ verified signatures as long as no substantive changes are made to the petition. The petitioners shall be provided one resubmission opportunity which must be completed within a window of 60 calendar days after the return of the petition pursuant to 4802.1. This is the same window for verification of signatures and any corrections or additional signatures submitted. The LEA shall have 25 calendar days to verify the resubmitted signatures, additional signatures or corrections to the petition. The resubmitted petition may not contain substantive changes or amendments. If substantive changes are made to the petition, it must be recirculated for signatures before it may be ~~resubmitted~~ submitted to the LEA and it shall be deemed a new petition.

(k)~~(i)(g)~~ If the LEA does not return the petition ~~pursuant to subdivision (g)(f),~~ the LEA shall have 45 ~~business~~ calendar days from the date the petition is received to reach a final disposition. The date may be extended by an additional 20 business days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

(l)~~(j)(h)~~ The LEA shall notify the SSPI and the SBE in writing within ten business days of its receipt of a petition and within two business days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific recommended option, including the compelling interest that supports such a finding, designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

(m)~~(k)(i)~~ If the number of schools identified in a petition and subject to an

intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive two or more notifications of final dispositions that agree to implement an intervention on the same day, the petition will be chosen by random selection.]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202, 53300, 53301 and 53302, Education Code.

§ 4802.2. Charter Requirements for Parent Empowerment Petitions.

(a) A petition that requests that the LEA adopt the restart model as an intervention at a subject school, and more specifically requests that the **subject school be reopened** as a charter school **under a specific charter school operator, charter management organization or education management organization**, **shall** attach to the petition the ~~be circulated for signature with a~~ **proposed charter for the school** ~~**that meets all of the requirements of Education Code section 47605(b)**~~ that contains comprehensive descriptions pursuant to Education Code section 47605(b)(5)(A) through (P)**.** ~~Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed.~~

(b) ~~The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if~~ Upon the receipt by an LEA of a petition that requests a restart model as the intervention, whether or not **the petition** ~~that~~ also **requests that the subject school be reopened** as a charter school **under a specific charter school operator, charter management organization or education management organization**, ~~otherwise meets all of the requirements of~~ the LEA must follow the provisions of section 4802.1 and first determine whether it will implement the requested intervention option presented in the petition or implement one of the other intervention options in **Education Code section 53300.**

(c) ~~**The governing board of the school district shall hold the public hearing to approve or deny the charter pursuant to Education Code section 47605(b) concurrently with the public hearing required pursuant to Education Code section 53300.**~~ ~~Upon the receipt of a petition that requests~~ **If** an LEA adopts **a restart model as** an **intervention,** ~~the LEA must follow the provisions of section 4802.1 and determine whether it will implement the requested intervention option presented in the petition or implement one of the other intervention options in Education Code section 53300. If a~~ and the **petition** has **requested**~~s~~ **that the subject school be operated under a specific charter school operator, charter management organization or education management organization,** ~~and the LEA does not reject the petition pursuant to Section 4802.1(g), then~~ **the LEA** ~~must~~ shall then **conduct the rigorous review process required by Education Code section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l)** ~~with the~~ except~~ion~~ that the timelines set forth in Education Code section 47605(b) only began after an LEA formally adopts the restart model as an intervention option. The signatures required to establish a charter school pursuant to section 47605(a)(1) *[OPTIONAL: 47605(a)(1) through (3) and 47605(b)(3)]* shall not be required. ~~do not begin until 25 business days after the petition was received.~~

~~If a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA must immediately solicit charter proposals from charter school operators, charter management organizations and education management organizations and, prior to selecting a charter school operator, charter management organization or education management organization, must conduct the rigorous review process required by Education Code section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), and (l) with the exception that the timelines set forth in Education Code section~~

~~47605(b) do not begin until a charter proposal is received. If, after the rigorous review specified in this subdivision, the LEA finds that the charter included with the parent empowerment petition substantially fails to meet the requirements of Education Code section 47605 and the petitioners cannot cure this failure through a revision of the charter, or the petition does not request a specific charter school operator, charter management organization or education management organization and the LEA is unable to identify a charter school operator, charter management organization or education management organization which meets the requirements of Education Code section 47605, the LEA shall find that it is unable to implement the option requested by parents and shall implement one of the other options specified in Education Code section 53300 in the subsequent school year.~~

~~(d) The LEA shall only act to approve or deny a specific charter proposal if and only if the LEA has adopted the restart model as its final disposition.~~

(d) If the LEA has adopted the restart model as its final disposition, and a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, then the LEA shall, within 15 business days of the adoption of the restart model as an intervention option, solicit charter proposals from charter school operators, charter management organizations and education management organizations.

[OPTIONAL SUBSECTION(d) (in place of (d) above): If the LEA has adopted the restart model as its final disposition, and a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, then the LEA shall promptly notify the petitioners that it has adopted the restart model and give the petitioners the option to solicit charter proposals from charter school operators, charter management organizations and education management organizations and select a specific charter school operator. If the petitioners opt to solicit charter proposals and select a specific charter school operator, they must submit the proposed charter school operator to the LEA. If the

petitioners inform the LEA that they have declined the option to solicit charter proposals and select a charter school operator, the LEA shall, within 15 business days, solicit charter proposals from charter school operators, charter management organizations and education management organizations.]

(e) Prior to selecting a particular charter school operator, charter management organization or education management organization, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal.

[OPTIONAL SUBSECTION(e) (in place of (e) above): Where the petitioners opt to submit a charter proposal for a specific operator to the LEA pursuant to section 4802.2, optional subsection (d), upon submission of the charter proposal, the LEA shall then conduct the rigorous review process regarding the specific charter required by Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal. Where the LEA has solicited charter proposals because the petitioners have declined to do so, prior to selecting a particular charter school operator, charter management organization or education management organization, the LEA shall conduct the rigorous review process regarding the specific charter required by Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal.]

(f)~~(d)~~ **A charter school established by a parent empowerment petition, once approved, shall be subject to all of the provisions of law that apply to other conversion charter schools** ~~**comply with the admission requirements**~~

~~**for an existing public school converting partially or entirely to a charter school specified in Education Code section 47605(d)(1) and shall admit all pupils who reside within the former attendance area of the subject public school.**~~

[OPTIONAL NEW SUBSECTION(g) The charter school established by a parent empowerment petition, must inform parents of the LEA choosing the charter school model, that parent advisory committees or alternative programs if provided for in the LEA, will not be available in the restart model-charter school nor is the charter school required to comply with the parent waiver requirements of Education Code section 310 and 311.]

[OPTIONAL SECTION §4802.2 (in place of 4802.2 above):
§ 4802.2. Restart Requirements for Parent Empowerment Petitions.

(a) Except where specifically designated in this section, a charter school proposal submitted through a parent empowerment petition, shall be subject to all the provisions of law that apply to other charter schools.

(b) Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed.
The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if the petition that requests that the subject school be reopened under a specific charter operator, charter management organization or education management organization otherwise meets all the requirements of Education Code section 53300.

(c) A petition that requests that the subject school be reopened under a specific charter school operator, charter management organization or education management organization may be circulated for signature with the proposed charter for the school. Upon receipt of the petition that requests a restart model as intervention and that includes a charter petition, the LEA must follow the provisions of section 4802.1 and determine whether it will implement the

requested intervention options in Education Code section 53300. If a petition requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g) then the rigorous review process required by Education Code section 53300 and section 4804 shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3).

(d) If a parent empowerment petition does not include the proposed charter but requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA must either:

(1) Immediately solicit charter proposals from charter school operators, charter management organizations and education management organizations and, shall select a charter school operator, charter management organization or education management organization, through the rigorous review process required by Education Code section 53300 and section 4804. The rigorous review process shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3), and shall begin at the end of a solicitation period not to exceed 90 calendar days; or,

(2) Direct the parent petitioner(s) to submit a charter proposal that meets the requirements of EC section 47605(b), excepting 47605(b)(3), within 90 calendar days. Upon submittal of the charter proposal, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which shall be the review process and timelines set forth in Education Code section 47605(b) excepting 47605(b)(3).

(e) If the parents petition for a restart option to operate the school under an educational management organization that is not a charter school, the LEA shall work in good faith to implement a contract with a provider selected by the parents. In the absence of parent selection of a specific provider, the LEA shall immediately solicit proposals from educational management organizations, and

shall select an education management organization, through the rigorous review process required by Education Code section 53300 and section 4804 unless the LEA is unable to implement the option requested by the parents and shall implement one of the other options specified in Education Code section 53300.]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47605 and 53300, Education Code.

§ 4803. Description of Intervention – Turnaround Model.

(a) A turnaround model is one in which a**n** ~~**local educational agency (**~~LEA~~**)**~~ must:

(1) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(2) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students;

(A) Screen all existing staff and rehire no more than 50 percent; and

(B) Select new staff;

(3) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

(4) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(5) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new “turnaround office” in the LEA, hire a “turnaround leader” who reports directly to the Superintendent or Chief Academic

Officer, or enter into a multi-year contract with the LEA or State Educational Agency (SEA) to obtain added flexibility in exchange for greater accountability;

(6) Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards;

(7) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(8) Establish schedules and implement strategies that provide increased learning time (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59805 (Nov.18, 2009); and

(9) Provide appropriate social-emotional and community-oriented services and supports for students.

(b) A turnaround model may also implement other strategies such as:

(1) Any of the required and permissible activities under the transformation model; or

(2) A new school model (e.g., themed, dual language academy).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4804. Description of Intervention – Restart Model.

A restart model is one in which a**n** ~~**local educational agency (**~~LEA~~**)**~~ converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides "whole-school operation" services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code; and 20 U.S.C. Section 6301.

§ 4805. Description of Intervention – School Closure.

School closure occurs when a**n** ~~**local educational agency (**~~LEA~~**)**~~ closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data is not yet available.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4806. Description of Intervention – Transformation Model.

A transformation model is one in which a**n** ~~**local educational agency (**~~LEA~~**)**~~ implements each of the following strategies:

(a) Developing and increasing teacher and school leader effectiveness.

(1) Required activities. The LEA must:

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

1. Take into account data on student growth (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59806 (Nov. 18, 2009)**)** as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduations rates; and

2. Are designed and developed with teacher and principal involvement.

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities

have been provided for them to improve their professional practice, have not done so;

(D) Provide staff with ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(2) Permissible activities. An LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as:

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(b) Comprehensive instructional reform strategies.

(1) Required activities. The LEA must:

(A) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(2) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as:

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a school wide “response-to-intervention” model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited-English-proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools:

1. Increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

2. Improving student transition from middle to high school through summer transition programs or freshman academies;

3. Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

4. Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(c) Increasing learning time and creating community-oriented schools.

(1) Required activities. The LEA must:

(A) Establish schedules and implement strategies that provide increased learning time (as defined in 74 Federal Register 59805 (Nov. 18, 2009)); and

(B) Provide ongoing mechanisms for family and community engagement.

(2) Permissible activities. An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as:

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

(d) Providing operational flexibility and sustained support.

(1) Required activities. The LEA must:

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the State Educational Agency (SEA), or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(2) Permissible activities. The LEA may also implement other strategies for providing operational flexibility and intensive support, such as:

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil school-based budget formula that is weighted based on student needs.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4807. Description of Intervention – Alternative Governance Arrangement.

Alternative governance is one in which an LEA institutes any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under Section 6311(b)(2) of the federal Elementary and Secondary Education Act. ~~**In the case of a rural LEA with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's request, provide technical assistance to such agency for the purpose of implementing this clause.**~~

NOTE: Authority cited: Section 33031, Education Code. Reference: Section**s 53202 and** 53300, Education Code; and 20 U.S.C. Sections 6311 and 6316.

§ 4808. Prospective Effect of Regulations.

The regulations in Article 1 are to apply prospectively. Any actions taken in reasonable reliance upon emergency regulations in effect at the time are to be deemed in compliance with these regulations *[OPTION: to the extent permitted by law]***.**

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 11346.1 and 11349.6, Government Code.

5-20-11 [California Department of Education]

Title 5. EDUCATION
Division 1. California Department of Education
Chapter 5.2.5. Parent Empowerment
Subchapter 1. Parent Empowerment
Article 1. General Provisions

§ 4800. Intent.

The Parent Empowerment provisions shall remain valid in the event of changes to federal law referenced within the legislative language of Chapters 2 and 3 of the 5th Extraordinary Session Statutes of 2010, to the extent allowable under the law.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code; and 20 U.S.C. Section 6316.

§ 4800.1. Definitions.

(a) “Elementary school” means a school, regardless of the number of grade levels, whose graduates matriculate into either a subject elementary, middle or high school.

(b) “Eligible signature” means a signature of a parent or legal guardian of a pupil that can be counted toward meeting the requirement that at least one-half of the parents or legal guardians of pupils have signed the petition as set forth in Education Code section 53300.

(c) “Final disposition” means the action taken by the local educational agency (LEA) to implement the requested intervention option presented by a petition or implement one of the other intervention options as set forth in Education Code section 53300.

(d) “High school” means four-year high schools, senior high schools, continuation high schools, and evening schools.

(e) “Intervention” or “requested intervention” means:

(1) one of the four interventions (turnaround model, restart model, school

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closure, and transformation model) identified pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Education Code section 53202 and as further described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Section Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009; or

(2) the alternative governance arrangement pursuant to Title 20 U.S.C. Section 6316(b)(8)(B)(v).

(f) “Middle school” means a school, regardless of the number of grade levels, whose graduates matriculate into a subject high school. Middle school also means a junior high school whose graduates matriculate into a subject senior high school.

(g) “Normally matriculate” means the typical pattern of attendance progression from an elementary school to a subject elementary school, from an elementary school to a subject middle or high school or from a middle school to a subject high school, as determined by the LEA(s) pursuant to established attendance boundaries, published policies or practices in place on the date the petition is submitted.

(h) “Parents or legal guardians of pupils” means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727 or Education Code sections 56028 or 56055, including foster parents who hold rights to make educational decisions, on the date the petition is submitted.

(i) “Petition” means a petition requesting an LEA to implement one of the interventions defined in subdivision (e).

(j) “Pupils attending the subject school or elementary or middle schools that normally matriculate into a subject middle or high school” means a pupil enrolled in the school on the date the petition is submitted to the LEA.

(k) “Subject school” means a school identified by the Superintendent of Public Instruction following the release of the annual adequate yearly progress report, as a school that:

(1) Is not one of the persistently lowest-achieving schools identified by the

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(2) Has been in corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act for at least one full academic year;

(3) Has failed to make adequate yearly progress (AYP); and

(4) Has an Academic Performance Index (API) score of less than 800.

[OPTIONAL NEW SUBSECTION(k)(5): A school that exits Program Improvement shall not be subject to continued identification on the Parent Empowerment list.]

(l) "Cannot implement the specific recommended option" means that an LEA is unable to implement the intervention requested in the petition and has provided in writing, during a regularly scheduled public meeting, the considerations, and reasons for reaching such a finding.

(m) "Matriculating School" means all elementary or middle schools that normally matriculate into a subject elementary, middle, or high school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53, 53201, 53202, 53300, 53303, 56028 and 56055, Education Code; and 20 U.S.C. Section 6316.

§ 4800.3. Requirement to Serve All Pupils.

Every pupil that attended a subject school prior to the implementation of an intervention shall continue to be enrolled in the school during and after an intervention is implemented pursuant to Education Code section 53300, unless the parent or legal guardian of the pupil chooses to enroll the pupil in another school or the school is closed. In addition, any pupil who resides in the attendance area of the subject school during or after the implementation of an intervention has a right to attend the school, subject to any laws or rules pertaining to enrollment.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300, Education Code.

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§ 4800.5. Parental Notice.

Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Section~~.~~ 6301 et seq.), on the date the notice of restructuring planning or restructuring status, Program Improvement Year 4 or later, is given pursuant to federal law, the LEA shall provide the parents and guardians of all pupils enrolled in a school in restructuring planning or restructuring status with notice that the school may be eligible for a parent empowerment petition to request a specific intervention pursuant to Education Code section 53300. *[OPTION 1: The notice shall include the requirement that the LEA must hold at least two public hearings to notify staff, parents and the community of the school's designation and to seek input from staff, parents and the community regarding the option or options most suitable for the school. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest achieving.]* This notice shall provide the web site address for the California Department of Education to obtain further information on circulating a parent empowerment petition. *[OPTION 2: Any information provided on CDE's website shall also be available in multiple languages.]* This notice may also identify a web site at which the LEA may list the schools in the district subject to the provisions of the Parent Empowerment statutes, including enrollment data and attendance boundaries for each school. The web site may also inform parents and legal guardians of pupils how they may sign a petition requesting the school district to implement one or more interventions to improve the school and how they may contact community-based organizations or work with individual school administrators and parent and community leaders to understand the school intervention options and provide input about the best option for the school. This notice, and any other written communication from the school or the LEA to parents or legal guardians of pupils, must meet the language requirements of Education Code section 48985.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 48985 and 53300, Education Code; and 20 U.S.C. Section 6301.

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§ 4801. Petition Signatures.

(a) A petition shall contain signatures of parents and legal guardians of pupils attending the subject school, or may contain a combination of signatures of parents and legal guardians of pupils attending the subject school and signatures of parents or legal guardians of pupils attending the matriculating schools. A petition may not consist solely of signatures of parents or legal guardians of pupils attending the matriculating schools.

(b) Only one parent or legal guardian per pupil may sign a petition.

(c) The petition must have boxes consecutively numbered commencing with number 1, with sufficient space for the signature of each petition signer as well as his or her printed name, date, pupil's name, the pupil's date of birth, the name of the school the pupil is currently attending, and the pupil's current grade.

(d) The boxes described in subdivision (c) may also have space for the signer's address, city or unincorporated community name, and zip code, or request other information, and if so, the petition shall make clear that providing such information is voluntary, and cannot be made a condition of signing the petition.

(e) A petition may be signed by a parent or a legal guardian once for each of his or her pupils attending the subject school or, if the petition contains a combination of signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into a subject middle or high school, once for each of his or her pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject middle or high school. Separate petition boxes must be completed by the parent or legal guardian for each of his or her pupils.

(f) A petition may be circulated and presented in sections, so long as each section complies with the requirements set forth in this section and section 4802 regarding the content of the petition.

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(g) Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition, except that signature gatherers may discuss educational related improvements hoped to be realized by implementing the requested intervention option. Signature gatherers, students, school site staff, LEA staff, [OPTION 1: *community members]* and parents and legal guardians shall be free from harassment, threats, and intimidation related to circulation or signature of a petition. [OPTION 2: *Signature gatherers shall disclose if they are being paid, and shall not be paid per signature.]*

[OPTIONAL SUBSECTION(g) (in place of g above): Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition. Nor shall signature gatherers make any threats of coercive action, false statements or false promises of benefits to parents or legal guardians in order to persuade them to sign a petition, except that signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by implementing any intervention described in these regulations. Signature gatherers, students, school site staff, LEA staff, members of the community and parents and legal guardians shall be free from harassment, threats, and intimidation related to circulation or signature of a petition, or to the discouraging of signing a petition or to the revocation of signatures from the petition.]

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[OPTIONAL NEW SUBSECTION(h): All parties involved in the signature gathering process shall adhere to all school site hours of operation, school and LEA safety policies, and visitor sign in and procedures.]

[OPTIONAL NEW SUBSECTION(i): School or district resources shall not be used to influence the signature gathering process.]

[OPTIONAL NEW SUBSECTION(j): This petition must meet the legal requirements of Education Code §48985.]

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300, Education Code.

§ 4802. Content of the Petition.

The petition and each section of the petition shall contain the following elements:

(a) A heading which states that it is a Petition of Parents, Legal Guardians, and Persons Holding the Right to Make Educational Decisions for Pupils, Including Foster Parents who hold rights to make educational decisions to request an Intervention be implemented at the specified subject school and to be submitted to a specified LEA;

(b) A statement that the petition seeks the signatures of the parents or legal guardians of the pupils attending the subject school or, in the alternative, the signatures of the parents or legal guardians of the pupils attending the subject school and the signatures of the parents or legal guardians of the pupils attending elementary or middle schools who would normally matriculate into the subject school;

(c) The name and public contact information of the person to be contacted by either persons interested in the petition or by the LEA;

(d) Identification of the requested intervention;

(e) A description of the requested intervention using the language set forth in either sections 4803, 4804, 4805, 4806, or 4807, without omission to ensure full

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disclosure of the impact of the intervention;

(f) The name of the subject school;

(g) Boxes as designated in section 4801(d) and (e);

(h) An affirmation that the signing parent or legal guardian is requesting the LEA to implement the identified intervention at the subject school; and

(i) A request to an LEA to implement the restart model intervention identified pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 may *[OPTION 1: shall]* also request that the subject school be reopened under a specific charter school operator, charter management organization or education management organization and, if so, that information must be clearly stated on the front page of the petition *[OPTION 2: including contact information of the charter school operator, charter management organization or education management organization.] [OPTION 3: The petition shall also disclose that parents have the option of signing a petition that does not designate a specific charter school operator, charter management organization or education management organization]*.

(j) The names of any agencies or organizations that are supporting the petition, either through direct financial assistance or in-kind contributions of staff and volunteer support, must be prominently displayed on the front page of the petition.

[OPTIONAL NEW SUBSECTION(k): A petition requesting to implement the restart model intervention as a charter school model pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 and 4802.2, shall state that parent advisory committees or alternative programs if provided for in the LEA, will not be available in the restart model-charter school nor is the charter school required to comply with the parent waiver requirements of Education Code sections 310 and 311.

[OPTIONAL NEW SUBSECTION(l): The CDE shall develop a sample petition that can be used by interested petitioners. The sample petition shall be available on the CDE website and available for distribution by LEAs to interested petitioners. The sample petition shall be available in other languages pursuant to

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Education Code Section 48985. Petitioners shall not be required to use the sample petition however alternate petitions must contain all required components pursuant to statutory and regulatory requirements.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code.

[OPTIONAL NEW SECTION §4802.05: Submission of Petition.

(a) Petitioners may not submit a petition until they reach or exceed the 50 percent threshold based on accurate and current enrollment data provided by the LEA. The date of submission of the petition shall be the start date for implementation of all statutory and regulatory requirements.

(b) An exception shall be made for a one-time resubmission opportunity to correct a petition based on errors identified by the LEA, verify signatures after a good faith effort is made by the LEA to do so first, or submit additional signatures. The start date for a resubmitted petition shall be the date it is resubmitted. No rolling petitions shall be accepted by the LEA.

(c) At the time of submission the petitioners shall submit a separate document that identifies at least one but no more than five lead petitioners with their contact information.

(d) The role of lead petitioners is to assist and facilitate communication between the parents who have signed the petition and the LEA. The lead petitioner contacts shall not be authorized to make decisions for the petitioners or negotiate on behalf of the parents.]

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§ 4802.1. Verification of Petition Signatures and Obligations of the LEA.

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

(b) Upon receipt of the petition, the LEA may match the information contained on the petition against existing enrollment records for accuracy. If a discrepancy is found, the LEA may contact the parents and legal guardians of pupils for verification purposes. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school.

[OPTIONAL SECTION §4802.1 (in place of 4802.1):

§ 4802.1. Verification of Petition Signatures and Obligations of the LEA.

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

(b) Upon receipt of the petition, the LEA may make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations. The LEA and matriculating LEAs shall use common verification documents that contain parent or guardian signatures to verify petition signatures such as emergency verification cards signed by all parents or guardians. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school. The matriculating LEA or school shall be required to provide information necessary to the subject school and LEA in order to assist in verifying signatures. An LEA shall not

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(c) If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school.

(d) If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether at least one-half of the parents or legal guardians of all pupils attending the subject school on the date the petition has been submitted have

invalidate the signature of a parent or legal guardian of a pupil on a minor technicality where it is clearly the intent of the parent or legal guardian to support the petition and the parent or legal guardian is entitled to sign the petition. The LEA and the matriculating LEA or school shall make a good faith effort to contact parents or guardians when a signature is not clearly identifiable including phone calls to the parent or guardian.

(c) If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school unless that school has exited federal Program Improvement and is at or over 800 on the Academic Performance Index.

(d) If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether parents or legal guardians of at least one-half of pupils attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the

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signed the petition, only those signatures of parents or legal guardians of pupils enrolled in the subject school on the date the petition is submitted to the LEA shall be counted.

(e) If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the matriculating schools, then for purposes of calculating whether at least one-half of the parents or legal guardians of pupils enrolled in the subject school and the matriculating schools on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils enrolled in the subject school and the parents or legal guardians of pupils enrolled in the matriculating schools at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in *subject school on the date the petition is submitted to the LEA shall be counted.*

(e) If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school, then for purposes of calculating whether the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school and the parents or legal guardians of pupils attending the elementary or middle schools who would normally matriculate into the subject school at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether at least one-half of the parents or legal guardians of pupils have signed the petition. There is

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calculating whether at least one-half of the parents or legal guardians of pupils have signed the petition. There is no specified ratio required of signatures gathered at each school, rather the total ratio of signatures gathered must meet the one-half requirement.

(f) In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition.

(g) Upon receipt, the LEA may, within 25 business days, return the petition to the person designated as the contact person as specified in section 4802(c), if the LEA determines any of the following:

(1) One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

(2) The school named in the petition is not a subject school; or

(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written

no specified ratio required of signatures gathered at each school, rather the total ratio of signatures gathered must meet the one-half requirement.

(f) In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition. The identified lead petitioners for the petition shall be consulted to assist in contacting parents or legal guardians when the LEA fails to reach a parent or legal guardian.

(g) Upon receipt, the LEA may, within 40 calendar days, return the petition to the person designated as the contact person or persons as specified in section 4802(c), if the LEA determines any of the following:

(1) One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

(2) The school named in the petition is not a subject school; or

(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition and its supporting findings.

(h) If the LEA finds that sufficient signatures cannot be verified by the LEA they shall immediately notify the lead

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notice of its reasons for returning the petition.

[OPTIONAL NEW SUBSECTION(g)(4): That the petition has not been translated into the number of languages as required by Education Code §48985.]

(h) If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with additional signatures as long as no changes are made to the petition. If any changes are made to the petition, it must be recirculated for signatures before it may be resubmitted to the LEA.

(i) If the LEA does not return the petition pursuant to subdivision (g), the LEA shall have 45 business days from the date the petition is received to reach a final disposition. The date may be extended by an additional 20 business days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

(j) The LEA shall notify the SSPI and the SBE in writing within ten business days of its receipt of a petition and within two business days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or

petitioner contacts and provide the lead petitioner the names of those parents and legal guardians they cannot verify. The lead petitioner contacts shall be provided 60 calendar days to assist the LEA to verify the signatures. A number of methods may be used including but not limited to an official notarization process or having the parent or guardian appear at the school or district office.

(i) If the LEA finds a discrepancy or problem with a submitted petition they shall notify the lead petition contacts in writing and request assistance and clarification prior to the final disposition of the petition. The LEA shall identify which signatures need verification, any errors found in the petition or need for further clarification regarding the petition.

(j) If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with verified signatures as long as no substantive changes are made to the petition. The petitioners shall be provided one resubmission opportunity which must be completed within a window of 60 calendar days after the return of the petition pursuant to 4802.1. This is the same window for verification of signatures and any corrections or additional signatures submitted.

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include the written finding stating the reason it cannot implement the specific recommended option, designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

(k) If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive on the same day two or more notifications of final dispositions that agree to implement an intervention, the petition will be chosen by random selection. (END)

The LEA shall have 25 calendar days to verify the resubmitted signatures, additional signatures or corrections to the petition. The resubmitted petition may not contain substantive changes or amendments. If substantive changes are made to the petition, it must be recirculated for signatures before it may be submitted to the LEA and it shall be deemed a new petition.

(k) If the LEA does not return the petition the LEA shall have 45 calendar days from the date the petition is received to reach a final disposition. The date may be extended by an additional 20 business days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

(l) The LEA shall notify the SSPI and the SBE in writing within ten business days of its receipt of a petition and within two business days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific

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recommended option, including the compelling interest that supports such a finding, designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

(m) If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive two or more notifications of final dispositions that agree to implement an intervention on the same day, the petition will be chosen by random selection.]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202, 53300, 53301 and 53302, Education Code.

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§ 4802.2. Charter Requirements for Parent Empowerment Petitions.

(a) A petition that requests that the LEA adopt the restart model as an intervention at a subject school, and more specifically requests that the subject school be reopened as a charter school under a specific charter school operator, charter management organization or education management organization, shall attach to the petition the proposed charter for the school that contains comprehensive descriptions pursuant to Education Code section 47605(b)(5)(A) through (P).

(b) Upon the receipt by an LEA of a petition that requests a restart model as the intervention, whether or not the petition also requests that the subject school be reopened as a charter school under a specific charter school operator, charter management organization or education management organization, the LEA must follow the provisions of section 4802.1 and first determine whether it will

[OPTIONAL SECTION §4802.2 (in place of 4802.2 above):

§ 4802.2. Restart Requirements for Parent Empowerment Petitions.

(a) Except where specifically designated in this section, a charter school proposal submitted through a parent empowerment petition, shall be subject to all the provisions of law that apply to other charter schools.

(b) Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed. The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if the petition that requests that the subject school be reopened under a specific charter operator, charter management organization or education management organization otherwise meets all the

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implement the requested intervention option presented in the petition or implement one of the other intervention options in Education Code section 53300.

(c) If an LEA adopts a restart model as an intervention, and the petition has requested that the subject school be operated under a specific charter school operator, charter management organization or education management organization, the LEA shall then conduct the rigorous review process required by Education Code section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l) except that the timelines set forth in Education Code section 47605(b) only began after an LEA formally adopts the restart model as an intervention option. The signatures required to establish a charter school pursuant to section 47605(a)(1) *[OPTIONAL: 47605(a)(1) through (3) and 47605(b)(3)]* shall not be required.

the requirements of Education Code section 53300.

(c) A petition that requests that the subject school be reopened under a specific charter school operator, charter management organization or education management organization may be circulated for signature with the proposed charter for the school. Upon receipt of the petition that requests a restart model as intervention and that includes a charter petition, the LEA must follow the provisions of section 4802.1 and determine whether it will implement the requested intervention options in Education Code section 53300. If a petition requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g) then the rigorous review process required by Education Code section 53300 and section 4804 shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3).

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(d) If the LEA has adopted the restart model as its final disposition, and a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, then the LEA shall, within 15 business days of the adoption of the restart model as an intervention option, solicit charter proposals from charter school operators, charter management organizations and education management organizations.

[OPTIONAL SUBSECTION(d) (in place of (d) above): If the LEA has adopted the restart model as its final disposition, and a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, then the LEA shall promptly notify the petitioners that it has adopted the restart model and give the petitioners the option to solicit charter proposals from charter school operators, charter management organizations and education management organizations and select a specific charter school

(d) If a parent empowerment petition does not include the proposed charter but requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA must either:

(1) Immediately solicit charter proposals from charter school operators, charter management organizations and education management organizations and, shall select a charter school operator, charter management organization or education management organization, through the rigorous review process required by Education Code section 53300 and section 4804. The rigorous review process shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3), and shall begin at the end of a solicitation period not to exceed 90 calendar days; or,

(2) Direct the parent petitioner(s)

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operator. If the petitioners opt to solicit charter proposals and select a specific charter school operator, they must submit the proposed charter school operator to the LEA. If the petitioners inform the LEA that they have declined the option to solicit charter proposals and select a charter school operator, the LEA shall, within 15 business days, solicit charter proposals from charter school operators, charter management organizations and education management organizations.]

(e) Prior to selecting a particular charter school operator, charter management organization or education management organization, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal.

[OPTIONAL SUBSECTION(e) (in place of (e) above): Where the to submit a charter proposal that meets the requirements of EC section 47605(b), excepting 47605(b)(3), within 90 calendar days. Upon submittal of the charter proposal, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which shall be the review process and timelines set forth in Education Code section 47605(b) excepting 47605(b)(3).

(e) If the parents petition for a restart option to operate the school under an educational management organization that is not a charter school, the LEA shall work in good faith to implement a contract with a provider selected by the parents. In the absence of parent selection of a specific provider, the LEA shall immediately solicit proposals from educational management organizations, and shall select an education management organization, through the rigorous review process required by Education Code section 53300 and section 4804 unless the LEA is unable to implement the option requested by the parents and shall implement one of the other options specified in Education Code section 53300.] (END)

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petitioners opt to submit a charter proposal for a specific operator to the LEA pursuant to section 4802.2, optional subsection (d), upon submission of the charter proposal, the LEA shall then conduct the rigorous review process regarding the specific charter required by Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal. Where the LEA has solicited charter proposals because the petitioners have declined to do so, prior to selecting a particular charter school operator, charter management organization or education management organization, the LEA shall conduct the rigorous review process regarding the specific charter required by Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal.]

(f) A charter school established by a parent empowerment petition, once approved, shall be subject to all of the provisions of law that apply to other conversion charter schools.

[OPTIONAL NEW SUBSECTION(g) The charter school established by a parent empowerment petition, must inform parents of the LEA choosing the charter school model, that parent advisory committees or alternative programs if provided for in the LEA, will not be available in the restart model-charter school nor is the charter school required to comply with the parent waiver requirements of Education Code section 310 and 311.]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47605 and 53300, Education Code.

§ 4803. Description of Intervention – Turnaround Model.

(a) A turnaround model is one in which an LEA must:

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(1) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(2) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students;

(A) Screen all existing staff and rehire no more than 50 percent; and

(B) Select new staff;

(3) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

(4) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(5) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new “turnaround office” in the LEA, hire a “turnaround leader” who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or State Educational Agency (SEA) to obtain added flexibility in exchange for greater accountability;

(6) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards;

(7) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(8) Establish schedules and implement strategies that provide increased learning time (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59805 (Nov.18, 2009);

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and

(9) Provide appropriate social-emotional and community-oriented services and supports for students.

(b) A turnaround model may also implement other strategies such as:

(1) Any of the required and permissible activities under the transformation model; or

(2) A new school model (e.g., themed, dual language academy).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4804. Description of Intervention – Restart Model.

A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides “whole-school operation” services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code; and 20 U.S.C. Section 6301.

§ 4805. Description of Intervention – School Closure.

School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data is not yet available.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

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§ 4806. Description of Intervention – Transformation Model.

A transformation model is one in which an LEA implements each of the following strategies:

(a) Developing and increasing teacher and school leader effectiveness.

(1) Required activities. The LEA must:

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

1. Take into account data on student growth (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59806 (Nov. 18, 2009)) as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduations rates; and

2. Are designed and developed with teacher and principal involvement.

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff with ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are

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designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(2) Permissible activities. An LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as:

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(b) Comprehensive instructional reform strategies.

(1) Required activities. The LEA must:

(A) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(2) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as:

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a school wide “response-to-intervention” model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited-English-proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools:

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1. Increasing rigor by offering opportunities for students to enroll in advanced coursework (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

2. Improving student transition from middle to high school through summer transition programs or freshman academies;

3. Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

4. Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(c) Increasing learning time and creating community-oriented schools.

(1) Required activities. The LEA must:

(A) Establish schedules and implement strategies that provide increased learning time (as defined in 74 Federal Register 59805 (Nov. 18, 2009)); and

(B) Provide ongoing mechanisms for family and community engagement.

(2) Permissible activities. An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as:

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such

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as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

(d) Providing operational flexibility and sustained support.

(1) Required activities. The LEA must:

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the State Educational Agency (SEA), or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(2) Permissible activities. The LEA may also implement other strategies for providing operational flexibility and intensive support, such as:

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil school-based budget formula that is weighted based on student needs.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4807. Description of Intervention – Alternative Governance Arrangement.

Alternative governance is one in which an LEA institutes any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under Section 6311(b)(2) of the federal Elementary and Secondary Education Act.

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NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code; and 20 U.S.C. Sections 6311 and 6316.

§ 4808. Prospective Effect of Regulations.

The regulations in Article 1 are to apply prospectively. Any actions taken in reasonable reliance upon emergency regulations in effect at the time are to be deemed in compliance with these regulations *[OPTION: to the extent permitted by law]*.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 11346.1 and 11349.6, Government Code.

5-20-11 [California Department of Education]

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DECISION POINTS

For proposed changes to the Parent Empowerment —
California Code of Regulations, *Title 5*, Sections 4800 Through 4808

This document provides an overview of the proposed changes to the Proposed Parent Empowerment Regulations, an overview of comments received during the second 15-day public comment period, and regulatory options for SBE's consideration before making its final decision in adopting any proposed language. This document does not reflect minor changes that are proposed to be made in these regulations, such as changes to numbering or lettering, or minor grammatical or typographical edits.

Each section or subsection begins with a synopsis of the proposed change(s) and the reason for the proposed change(s). This is followed by the affected language, the nature of the edit, an overview of comments, and factors for the SBE to consider when making its final decision in adopting any proposed language.

For the first entry, Section 4800.1(g), the affected language is provided in two versions: one with historical edits, highlighting, and formatting; the second without the historical edits, highlighting and formatting for ease of reading. Throughout the remainder of the document, the affected language is presented without the historical edits, highlighting and formatting.

SECTION 4800.1

SECTION 4800.1(g) is amended to establish the date of the petition's submission as a point in time to establish the matriculation pattern for the petition process. It also provides that any policies or practices relied upon should be published. The amendment further clarifies that, in some cases, an elementary school can matriculate into a subject high school.

"(g) 'Normally matriculate' means the typical pattern of attendance progression from an elementary school to a subject elementary school, from an elementary school to a subject middle or high **school or from a middle school to a subject high school, as determined by the LEA(s) pursuant to established attendance boundaries,** published **policies or practices** in place on the date the petition is submitted**."**

"(g) 'Normally matriculate' means the typical pattern of attendance progression from an elementary school to a subject elementary school, from an elementary school to a subject middle or high school or from a middle school to a subject high school, as determined by the LEA(s) pursuant to established attendance boundaries, published policies or practices in place on the date the petition is submitted."

Edit: Substantive. These changes were made in response to previous public comment.

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Comments: Comments received were favorable to amendment.
Consideration: CDE has no objections.

SECTION 4800.1(h) is amended to clarify that the determination of whether an individual is to be deemed a parent or legal guardian for purposes of the parent empowerment regulations is determined by whether the individual meets the requirements on the date the petition is submitted to the local educational agency (LEA).

"(h) 'Parents or legal guardians of pupils' means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727 or Education Code sections 56028 or 56055, including foster parents who hold rights to make educational decisions, on the date the petition is submitted."

Edit: Substantive.

Comments: One comment suggested changing language to "on the date signed" to be preferable over "the date the petition is submitted," as consistent with Election code provisions. Other commenters agreed with amendment.

Consideration: If adopted, it would be consistent with other sections of the regulations and with other petition processes which use submission date as the critical point in time. Generally the issue of whether one is authorized to sign a document is determined at the date the document is signed and not at a future date.

SECTION 4800.1(j) is amended to clarify that a pupil only needs to be enrolled in the school on the date a petition is submitted since a pupil's attendance on a particular day may be difficult to determine.

"(j) Pupils attending the subject school or elementary or middle schools that normally matriculate into a subject middle or high school" means a pupil ~~attending~~ enrolled in the school on the date the petition is submitted to the LEA."

Edit: Non-substantive. Change was made in response to previous public comment.

Comments: Two commenters agreed with the amendment.

Consideration: CDE has no objections.

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OPTIONAL SUBSECTION 4800.1(k)(5) is an optional new subsection proposed by a stakeholder which, if adopted, would require that a subject school that exits Program Improvement no longer be identified as a subject school.

"(k)(5): A school that exits Program Improvement shall not be subject to continued identification on the Parent Empowerment list."

Edit: Substantive.

Comments: This language proposed by stakeholders has been proposed in previous public comment and has not been adopted because the language is not necessary. A school must meet AYP goals two years in succession to exit Program Improvement. If a school meets AYP for one year, it is still subject to Program Improvement mandates pursuant to 20 U.S.C. Section 6316(b). Public comment generally in favor of this language.

Consideration: CDE staff does not believe the language is necessary.

SECTION 4800.1 (l) is amended in response to a public comment received during the 15-day comment period that imposing a "compelling interest" requirement was outside the scope of the parent empowerment statutes. It was also amended to clarify that Education Code section 53300 requires that a written finding be made at a regularly scheduled public meeting if the LEA cannot implement the specific recommended option requested in the petition.

"(l) 'Cannot implement the specific recommended option' means that an LEA is unable to implement the intervention requested in the petition and has ~~a compelling interest to support~~ provided in writing, during a regularly scheduled public meeting, the considerations, and reasons for reaching such a finding."

Edit: Substantive. Change was made in response to previous public comment.

Comments: Commenters agree with this amendment.

Consideration: CDE has no objections.

SECTION 4800.1(m) adds a new definition for matriculating schools in order to provide additional clarity throughout the regulations.

"(m) 'Matriculating School' means all elementary or middle schools that normally matriculate into a subject elementary, middle, or high school."

Edit: Substantive. Change was made in response to previous public comment.

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Comments: Only one comment received and it was in favor of the amendment.

Consideration: CDE has no objections.

SECTION 4800.5

SECTION 4800.5 has not changed except now it includes two optional provisions within it proposed by separate stakeholders, either or both of which the SBE may choose to adopt in the future.

OPTION 1, if adopted, would provide that the notice sent from the LEA must include the requirement that two public hearings will be held to discuss the school's designation as a school subject to restructuring planning or restructuring status, at which time input will be sought regarding the options most suitable for the school. It would also provide that at least one of the two meetings shall be held at a regularly-scheduled meeting, if applicable, and at least one of the meetings at the site of the school deemed to be persistently lowest achieving.

"The notice shall include the requirement that the LEA must hold at least two public hearings to notify staff, parents and the community of the school's designation and to seek input from staff, parents and the community regarding the option or options most suitable for the school. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest achieving."

Edit: Substantive.

Comments: Public comment is divided on this option.

Consideration: Parent Empowerment statute may not support the inclusion of a public hearing requirement. A school deemed to be persistently lowest achieving is not subject to the Parent Empowerment statute.

OPTION 2, if adopted, would require that information posted on the CDE's website pertaining to Parent Empowerment be available in multiple languages.

"This notice shall provide the web site address for the California Department of Education to obtain further information on circulating a parent empowerment petition. Any information provided on CDE's website shall also be available in multiple languages."

Edit: Substantive.

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Comments: Public comment supportive of this addition with questions on which languages would be included for translation.

Consideration: The proposal to translate a sample petition on the CDE website is covered in Section 4802(l). It would be logistically and financially difficult to translate "any information provided on CDE's Website" or even "any information related to parent empowerment on CDE's website."

SECTION 4801

SECTION 4801(a) was repetitive of subsection (b) so (a) has been stricken and subsection (b) has become subsection (a) and is amended to clarify who may sign a parent petition and to clarify that a petition may not contain only those signatures of parents and legal guardians of pupils attending matriculating schools.

"(a) A petition shall contain signatures of parents and legal guardians of pupils attending the subject school, or may contain a combination of signatures of parents and legal guardians of pupils attending the subject school and signatures of parents or legal guardians of pupils attending the matriculating schools. A petition may not consist solely of signatures of parents or legal guardians of pupils attending the matriculating schools. (b) Only one parent or legal guardian per pupil may sign a petition."

Edit: Substantive.

Comments: One commenter objected to this change. However, language in stricken subsection (a) is included in the new subsection (a).

Consideration: CDE has no objections.

SECTION 4801(g) is amended to add "students, school site staff and LEA staff," to the class of persons to be protected from threats and intimidation, in addition to signature gatherers. It also adds "harassment" as a prohibited activity.

It also includes two optional provisions proposed by stakeholders, either or both of which the Board may adopt. If adopted, the optional provisions would make the following changes.

OPTION 1, if adopted, would add "community members" among the class of persons to be protected.

"(g) Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition, except that signature gatherers may discuss educational related improvements hoped to be realized by implementing the requested intervention option. Signature gatherers, students, school site staff, LEA staff, **OPTION 1:** community members and parents and legal guardians shall be free from

SBE use only

harassment, threats, and intimidation related to circulation or signature of a petition.

Edit: Substantive

Comments: While no comments were received opposing these changes, most comments relating to Section 4801(g) stated a preference for the Optional Section 4801(g) with the inclusion of option 2 below, which states that signature gatherers shall disclose if they are being paid, and shall not be paid per signature.

Consideration: Optional Section 4801(g) with the inclusion of Option 2 from Section 4801(g) below seems to be the most inclusive of desired language from the comments received.

OPTION 2, if adopted, would also provide that signature gatherers shall disclose if they are being paid and shall not be paid on a per signature basis. These optional provisions are denoted as Options 1 and 2 for reference purposes.

OPTION 2: "Signature gatherers shall disclose if they are being paid, and shall not be paid per signature."

Edit: Substantive.

Comments: While no comments were received opposing these changes, most comments relating to Section 4801(g) stated a preference for the Optional Section 4801(g) with the inclusion of Option 2 above, which states that signature gatherers shall disclose if they are being paid, and shall not be paid per signature.

Consideration: Optional Section 4801(g) with the inclusion of Option 2 from Section 4801(g) above seems to be the most inclusive of desired language from the comments received.

OPTIONAL SECTION 4801(g) includes many of the same provisions as section 4801(g) in that it prohibits signature gatherers from offering gifts, rewards or tangible incentives to parents or legal guardians, adds students, school site staff, LEA staff and community members as groups of persons to be free from threats and intimidation, adds harassment as an activity from which these groups should be free and provides that signature gatherers may discuss educational related improvements hoped to be realized by implementing the requested option. Optional section 4801(g), however, is different in that it would also prohibit signature gatherers from making threats, false statements or false promises in order to prevent parents or legal guardians from being unfairly persuaded to sign a petition. It would clarify that, in addition to signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by the intervention requested. It would also

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more specifically set forth that actions "related to circulation of a petition or signature of a petition" includes the discouraging of signing a petition or revoking signatures from a petition.

OPTIONAL SUBSECTION (g) in place of (g) above: "Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition. Nor shall signature gatherers make any threats of coercive action, false statements or false promises of benefits to parents or legal guardians in order to persuade them to sign a petition, except that signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by implementing any intervention described in these regulations. Signature gatherers, students, school site staff, LEA staff, members of the community and parents and legal guardians shall be free from harassment, threats, and intimidation related to circulation or signature of a petition, or to the discouraging of signing a petition or to the revocation of signatures from the petition."

OPTION 2: from (g) above: "Signature gatherers shall disclose if they are being paid, and shall not be paid per signature."

Edit: Substantive.

Comments: Most commenters preferred the Optional Section 4801(g) with the inclusion of option 2 above from Section 4801(g), which states that signature gatherers shall disclose if they are being paid, and shall not be paid per signature.

Consideration: Optional Section 4801(g) with the inclusion of Option 2 seems to be the most inclusive of desired language from the comments received.

OPTIONAL SUBSECTION 4801(h) is an optional new subsection proposed by a group of stakeholders that would, if adopted, clarify that all parties involved in the signature process must adhere to the school's policies and procedures when on the school site.

"(h) All parties involved in the signature gathering process shall adhere to all school site hours of operation, school and LEA safety policies, and visitor sign in and procedures."

Edit: Substantive.

Comments: This language has been proposed in previous public comment and has not been adopted because the language is not necessary. LEAs have policies pertaining to visitors and outsiders that address these concerns.

Consideration: Most commenters are in favor of the language although two commenters are not. CDE staff does not believe the language is necessary.

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OPTIONAL SUBSECTION 4801(i) is an optional new subsection proposed by a group of stakeholders which would, if adopted, provide that school or LEA resources shall not be used to influence the signature gathering process.
"(i) School or district resources shall not be used to influence the signature gathering process."

Edit: Substantive.

Comments: Public comment is split on this addition. Some public comment objects to this language; it is vague, unnecessary, and invites confusion and potential litigation.

Consideration: Language seems vague, and may invite unnecessary disputes and litigation over what constitutes district resources.

OPTIONAL SUBSECTION 4801(j) is an optional new subsection proposed by a stakeholder that would, if adopted, require that petitions be translated into other languages pursuant to Education Code section 48985.

"(j) This petition must meet the legal requirements of Education Code §48985."

Edit: Substantive.

Comments: Public comment is supportive of this language, with questions surrounding the question of which languages the petitions shall be translated.

Consideration: EC 48985 applies only to notices and documents given to parents by the school or the LEA. Neither the school nor the LEA will be writing or circulating the petition. SBE may consider alternative language to accomplish same goal:

"Signature gatherers are responsible for ensuring that translated petitions are readily available to parents and legal guardians at the subject school and, if applicable, at any normally matriculating schools at which signatures are sought, in the same language(s) that the school or the LEA would be required to provide notices to parents and legal guardians pursuant to Education Code Section 48985."

<u>SECTION 4802</u>

SECTION 4802(i) offers three separate options within section 4802(i), any or all of which may be adopted.

SBE use only

OPTION 1 within section 4802(i), if adopted, would replace "may" with "shall" so that a request to an LEA to implement the restart model shall also request that the school be opened under a specific charter school operator, charter management organization or educational management organization.
"(i) A request to an LEA to implement the restart model intervention identified pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 **OPTION 1:** ~~may~~ shall also request that the subject school be reopened under a specific charter school operator, charter management organization or education management organization and, if so, that information must be clearly stated on the front page of the petition."

Edit: Substantive.

Comments: Public comment is split on this addition with most public comment against this option.

Consideration: Mandating petitioners to request a specific charter school operator, charter management organization or education management organization may be contrary to *EC* 53300 that compels a petition to request a particular intervention model rather than specifics beyond the intervention models.

OPTION 2, proposed by a group of stakeholders, if adopted, would require that a petition to implement a restart model that requests that the school be opened under a specific operator or organization include contact information for the operator or organization on the petition.

". . . and, if so, that information must be clearly stated on the front page of the petition **OPTION 2**: including contact information of the charter school operator, charter management organization or education management organization."

Edit: Substantive.

Comments: Public comment is supportive of this addition.

Consideration: CDE has no objections.

OPTION 3, proposed by Member Ramos, if adopted, would provide that a petition that requests that the school be opened under a specific charter school operator, charter management organization or educational management organization must disclose that parents have the option of signing a petition that does not designate a specific charter school operator, charter management organization or educational management organization.

"The petition shall also disclose that parents have the option of signing a petition that does not designate a specific charter school operator, charter management organization or education management organization."

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Edit: Substantive.

Comments: Public comment is split on this addition. Some of the comments against this addition state that the parents would not have the option of signing an alternative petition unless one was circulated. Other comments state that the language is unnecessary and potentially confusing to parents.

Consideration: If the goal of this language is to let parents who are asked to sign a petition know they could choose not to sign that petition if they don't like the specific charter operator and look for a different petition or start their own petition, the SBE may consider alternative language:

"*The petitions shall also disclose that petitions to implement the restart model need not designate a specific charter school operator, charter management organization or educational management organization, and parents and legal guardians have the option to either sign a petition which does not designate a specific operator or which designates a different operator, or circulate such a petition if one does not exist."*

SECTION 4802(j) is amended to identify on the petition all agencies or organizations supporting the petition, rather than just the agencies or organizations that are affiliated with the contact person identified in section 4802(c).

"(j) The names of any agencies or organizations that are supporting the petition, either through direct financial assistance or in-kind contributions of staff and volunteer support must be prominently displayed on the front page of the petition."

Edit: Substantive.

Comments: Public comment is supportive of this change.

Consideration: CDE has no objections.

OPTIONAL SUBSECTION 4802(k) is an optional new subsection proposed by a stakeholder which, if adopted, would provide that a petition requesting a restart model, and more specifically a charter school, shall state that if the LEA provides for parent advisory committees or alternative programs, those committees and programs will not be available for a charter school nor is a charter school required to comply with the parent waiver requirements of Education Code sections 310 and 311.

"(k): A petition requesting to implement the restart model intervention as a charter school model pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 and 4802.2, shall state that parent advisory committees or alternative programs if

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provided for in the LEA, will not be available in the restart model-charter school nor is the charter school required to comply with the parent waiver requirements of Education Code sections 310 and 311."

Edit: Substantive.

Comments: Public comment is split on this addition.

Consideration: Comments in opposition to the addition state the language is inaccurate as a charter school may choose to retain various committees or programs already in practice at a school site, which may include parent advisory committees or alternative programs. Commenters also stated it seems unnecessary and confusing to single out these "two exemptions from the myriad of laws to which a charter school may or may not comply."

OPTIONAL SUBSECTION 4802(l) is an optional new subsection proposed by a group of stakeholders which, if adopted, would provide that the CDE shall develop a sample petition, place the sample petition on its website and make the petition available in other languages pursuant to Education Code section 48985. It would further clarify that that petitioners will not be required to use the sample petition but that any petition used must meet all statutory and regulatory requirements.

"(l) The CDE shall develop a sample petition that can be used by interested petitioners. The sample petition shall be available on the CDE website and available for distribution by LEAs to interested petitioners. The sample petition shall be available in other languages pursuant to Education Code Section 48985. Petitioners shall not be required to use the sample petition. However, alternate petitions must contain all required components pursuant to statutory and regulatory requirements."

Edit: Substantive.

Comments: Public comment is supportive of this addition, with questions about which languages would be used.

Consideration: In the sentence "The sample petition shall be available in other languages pursuant to Education Code Section 48985," it is unclear which languages are being referenced since section 48985 applies to the school and LEA obligation based upon local census information, not to languages spoken statewide. The SBE may consider specifying the top five foreign languages spoken in households statewide according to the latest (09-10) survey information obtained by CDE's Clearinghouse for Multilingual Documents:

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"CDE shall make available on its website, translated versions of a sample petition in the following languages: Spanish, Vietnamese, Tagalog, Traditional Chinese (Cantonese) and Hmong."

NOTE: The next five languages are: Korean, Simplified Chinese (Mandarin), Arabic, Punjabi, and Armenian (Western and Eastern).

OPTIONAL SECTION 4802.05

OPTIONAL SECTION 4802.05 is an optional new section proposed by a group of stakeholders which, if adopted, would provide for the following:

1) Prohibit petitioners from submitting a petition to an LEA until they have reached the necessary one-half requirement;
2) Clarify that the date of submission of the petition is the start date for implementation of all statutory and regulatory requirements;
3) Provide that, if the LEA returns a petition for deficiencies, the petitioners shall only be allowed one time to correct the deficiencies;
4) Clarify that the start date for a resubmitted petition is the date the petition is resubmitted to the LEA;
5) Specify that no "rolling" petitions may be accepted;
6) Require a separate document accompany a submitted petition identifying up to five persons to act as lead petitioners and include their contact information; and
7) Clarify that the lead petitioners are to assist and facilitate communication between parents and the LEA and are not to make decisions or negotiate on behalf of the parents.

OPTIONAL NEW SECTION §4802.05: Submission of Petition.

"(a) Petitioners may not submit a petition until they reach or exceed the 50 percent threshold based on accurate and current enrollment data provided by the LEA. The date of submission of the petition shall be the start date for implementation of all statutory and regulatory requirements.

(b) An exception shall be made for a one-time resubmission opportunity to correct a petition based on errors identified by the LEA, verify signatures after a good faith effort is made by the LEA to do so first, or submit additional signatures. The start date for a resubmitted petition shall be the date it is resubmitted. No rolling petitions shall be accepted by the LEA.

(c) At the time of submission the petitioners shall submit a separate document that identifies at least one but no more than five lead petitioners with their contact information.

(d) The role of lead petitioners is to assist and facilitate communication between the parents who have signed the petition and the LEA. The lead petitioner contacts shall not be authorized to make decisions for the petitioners or negotiate on behalf of the parents."

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Edit: Substantive. This language was developed by stakeholders prior to the stakeholders seeing the proposed Second 15-day Regulations.

Comments: Comments are split on this addition. One of the comments in opposition states that this proposed new section is unnecessary and seems to overlap with the other regulations which cover the same content.

Consideration: Subsection (a) may be difficult to enforce since petitioners will not know if they have reached the requisite threshold until the LEA conducts its verification process, which takes place after they have submitted the petition. Further, this section may be unnecessary in light of other sections in the regulations. Finally, certain provisions in this section are vague as it is unclear what constitutes a prohibited "rolling petition," how LEAs are to utilize the lead petitioners and what duty these the lead petitioners have to follow an LEA's instructions.

SECTION 4802.1

SECTION 4802.1(b) is amended to provide more specific direction for a signature verification process in the event the LEA chooses to verify the signatures. It also deletes the provision prohibiting LEAs from invalidating signatures based on a technicality where the intent was to support the petition. This deletion was based upon comments received that this language is vague and would be difficult for LEAs to implement or any court to enforce.

"(b) Upon receipt of the petition, the LEA may match the information contained on the petition against existing enrollment records for accuracy. If a discrepancy is found, the LEA may contact the parents and legal guardians of pupils for verification purposes. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school."

Edit: Substantive.

Comments: Most public comment is supportive of this change.

Consideration: CDE has no objection.

SECTION 4802.1(d) is amended to maintain consistency with amendments made to section 4800.1(j).

"(d) If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether at least one-half of the parents or legal

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guardians of all pupils attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils enrolled in the subject school on the date the petition is submitted to the LEA shall be counted."

Edit: Non-substantive.

Comments: Changes made in response to previous public comment.

Consideration: CDE has no objections.

SECTION 4802.1(e) is amended to reflect consistency with section 4800.1(j) and the definition of "matriculating school" in section 4800.1(m).

"(e) If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the matriculating schools, then for purposes of calculating whether at least one-half of the parents or legal guardians of pupils enrolled in the subject school and the matriculating schools on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils enrolled in the subject school and the parents or legal guardians of pupils enrolled in the matriculating schools at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school; only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether at least one-half of the parents or legal guardians of pupils have signed the petition. There is no specified ratio required of signatures gathered at each school; rather, the total ratio of signatures gathered must meet the one-half requirement."

Edit: Substantive.

Comments: Reflects changes made in previous sections.

Consideration: CDE has no objections.

SECTION 4802.1(g)(3) is amended to delete superfluous language.

"(g) Upon receipt, the LEA may, within 25 business days, return the petition to the person designated as the contact person as specified in section 4802(c), if the LEA determines any of the following:"

(1) . . .
(2) . . .
(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition ~~and its supporting findings:~~

Edit: Non-substantive.

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Comments: Reflects changes made in section 4800.1(l)

Consideration: CDE has no objections

OPTIONAL SECTION 4802.1(g)(4) is an optional new subsection which, if adopted, would permit an LEA to return a petition on the basis that the petition was not translated into the number of languages required by Education Code section 48985. This amendment would only be necessary to include in the event that the regulations adopted required petitions to be translated into other languages pursuant to Education Code section 48985.

(g) Upon receipt, the LEA may, within 25 business days, return the petition to the person designated as the contact person as specified in section 4802(c), if the LEA determines any of the following:

(1) . . .
(2) . . .
(3) . . .
(4) "That the petition has not been translated into the number of languages as required by Education Code §48985."

Edit: Substantive.

Comments: All but one public comment is supportive of this language. The one comment received in opposition to the language pointed out that EC 48985 applies only to notices and documents given to parents by the school or the LEA.

Consideration: This section currently allows LEAs to reject submitted petitions for various reasons and adds the reason "That the petition has not been translated into the number of languages as required by Education Code Section 48985." In the event that the regulations require petitions to be translated into a foreign language, LEAs may want to be able to reject a petition that is noncompliant. Because EC section 48985 applies only to LEAs and schools, the SBE may consider, for purposes of legal clarity, the alternative language:

"That the petition has not been translated into the language(s) required by Section 4801(j)."

NOTE: Proposed alternative language for Section 4801(j) for reference purposes:

"Signature gatherers are responsible for ensuring that translated petitions are readily available to parents and legal guardians at the subject school and, if applicable, at any normally matriculating schools at which signatures are

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sought, in the same language(s) that the school or the LEA would be required to provide notices to parents and legal guardians pursuant to Education Code 48985."

SECTION 4802.1(h) is amended to clarify that if any changes are made to a petition, it must be recirculated for signatures.

"(h) If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with additional signatures as long as no changes are made to the petition. If any changes are made to the petition, it must be recirculated for signatures before it may be resubmitted to the LEA."

Edit: Non-substantive. Change was made in response to previous public comment.

Comments: No public comments received.

Consideration: CDE has no objections.

SECTION 4802.1(j) is amended in response to public comment to section 4800.1(l) received during the 15-day public comment period and amended to conform with the changes made to that section.

(j) The LEA shall notify the SSPI and the SBE in writing within ten business days of its receipt of a petition and within two business days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific recommended option, designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

Edit: Substantive. Changes are made to maintain consistency with changes in previous sections.

Comments: One comment in favor.

Consideration: CDE has no objections.

SECTION 4802.1(k) is amended for grammatical purposes.

"(k) If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive on the same day two or more notifications of final dispositions that agree to implement an intervention the petition will be chosen by random selection."

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Edit: Non-substantive. Changes are made for grammatical purposes.

Comments: No comments.

Consideration: CDE has no objections.

OPTIONAL SECTION 4802.1 if adopted, would amend section 4802.1 in several ways:

1) Set forth a particular manner of verification that LEAs can use if they choose to verify signatures;
2) Require matriculating schools and LEAs to cooperate when an LEA of a subject school is attempting to verify signatures and require each of these entities to make efforts to contact parents and guardians when a signature is not clearly identifiable;
3) Clarify that a subject school ceases to be a subject school when it exits Program Improvement program and obtains an 800 or higher API;
4) Provide that any lead petitioners must assist in several ways with the verification process if an LEA is having difficulty verifying signatures;
5) Set forth limits on how and when a petition may be resubmitted to an LEA after it has been rejected as incomplete and deem any resubmitted petition to be a new petition if it has been substantively changed;
6) Make changes to a number of process timelines, and;
7) Change the reference from “at least one-half of the parents or legal guardians of all pupils” to “parents and legal guardians of at least one-half of pupils” throughout.

[OPTIONAL SECTION §4802.1 (in place of 4802.1 above):
§ 4802.1. Verification of Petition Signatures and Obligations of the LEA.

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

(b) Upon receipt of the petition, the LEA may make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations. The LEA and matriculating LEAs shall use common verification documents that contain parent or guardian signatures to verify petition signatures such as emergency verification cards signed by all parents or guardians. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school. The matriculating LEA or school shall be required to provide information necessary to the subject school and LEA in order to assist in verifying signatures. An LEA shall not invalidate the signature of a parent or legal guardian of a pupil on a minor technicality where it is clearly the intent of the parent or legal guardian to support the petition and the parent or legal guardian is entitled to sign the petition. The LEA and the matriculating LEA or school shall make a good faith effort to contact parents or guardians when a signature is not clearly identifiable including phone calls to the parent

or guardian.

(c) If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school unless that school has exited federal Program Improvement and is at or over 800 on the Academic Performance Index.

(d) If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether parents or legal guardians of at least one-half of pupils attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school on the date the petition is submitted to the LEA shall be counted.

(e) If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school, then for purposes of calculating whether the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school and the parents or legal guardians of pupils attending the elementary or middle schools who would normally matriculate into the subject school at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether at least one-half of the parents or legal guardians of pupils have signed the petition. There is no specified ratio required of signatures gathered at each school; rather the total ratio of signatures gathered must meet the one-half requirement.

(f) In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition. The identified lead petitioners for the petition shall be consulted to assist in contacting parents or legal guardians when the LEA fails to reach a parent or legal guardian.

(g) Upon receipt, the LEA may, within 40 calendar days, return the petition to the person designated as the contact person or persons as specified in section 4802(c), if the LEA determines any of the following:

(1) One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

(2) The school named in the petition is not a subject school; or

(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition and its supporting findings.

(h) If the LEA finds that sufficient signatures cannot be verified by the LEA they shall immediately notify the lead petitioner contacts and provide the lead petitioner the names of those parents and legal guardians they cannot verify. The lead petitioner contacts shall be provided 60 calendar days to assist the LEA to verify the signatures. A number of methods may be used including but not limited to an official notarization process or having the parent or guardian appears at the school or district office.

(i) If the LEA finds a discrepancy or problem with a submitted petition they shall notify the lead petition contacts in writing and request assistance and clarification prior to the final disposition of the petition. The LEA shall identify which signatures need verification; any errors found in the petition or need for further clarification regarding the petition.

(j) If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with verified signatures as long as no substantive changes are made to the petition. The petitioners shall be provided one resubmission opportunity which must be completed within a window of 60 calendar days after the return of the petition pursuant to 4802.1. This is the same window for verification of signatures and any corrections or additional signatures submitted. The LEA shall have 25 calendar days to verify the resubmitted signatures, additional signatures or corrections to the petition. The resubmitted petition may not contain substantive changes or amendments. If substantive changes are made to the petition, it must be recirculated for signatures before it may be submitted to the LEA and it shall be deemed a new petition.

(k) If the LEA does not return the petition, the LEA shall have 45 calendar days from the date the petition is received to reach a final disposition. The date may be extended by an additional 20 business days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

(l) The LEA shall notify the SSPI and the SBE in writing within ten business days of its receipt of a petition and within two business days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific recommended option, including the compelling interest that supports such a finding, designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

(m) If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive two or more notifications of final dispositions that agree to implement an intervention on the same day, the petition will be chosen by random selection.

Edit: Substantive. Changes submitted by a group of stakeholders prior to publication of proposed second 15-day regulations.

Comments: Comments split. Some commenters in favor of this version; some take issue with various sections.

Consideration: A number of subsections are already addressed in the proposed regulations, including subsection (a), much of subsection (b), and subsections (d) and (e). This version may be more limiting for parents than the other version as petitioners can only resubmit a petition one time to make corrections, there is a time limit by which they must act and the school may no longer qualify for an intervention if it exits program improvement and increases its API**.** Unlike the

other version, it does not provide for a mechanism to reject a petition for failure to translate to a foreign language in the event that the regulations require this to be done in certain circumstances. Finally, there may be some difficulties having lead petitioners assisting LEAs in conducting verification activities. Also, this version continues to include a "compelling interest" requirement.

SECTION 4802.2

SECTION 4802.2 makes several changes and includes several options, any or all of which may be adopted.

1) It renumbers and restructures the section for clarity purposes.
2) It clarifies that when a petition requests a restart intervention model, whether or not it designates and attaches a particular proposed charter, the LEA must first determine whether it will implement the requested intervention option of restart before it will begin to either conduct a rigorous review process on a proposed charter or seek to obtain a proposal for a specific Charter School Operator (CSO), Charter Management Organization (CMO) or Educational Management Organization (EMO). The prior version of section 4802.2 provided that the LEA must first determine whether to adopt a restart model, if requested, before acting to approve or deny a charter, but it also provided that the rigorous review process could take place before the LEA had determined whether it could implement the restart model.
3) It modifies the timelines relating to the rigorous review process.
4) **PROVIDES OPTIONAL LANGUAGE IN SUBSECTION (c)** to clarify that none of the signature requirements set forth in Education Code section 47605 are necessary for a parent empowerment petition which seeks a restart model and specifically a charter school. Due to a typographical error, the citation to section 47605 in subdivision (c) did not mirror prior versions.
5) **OPTIONAL SUBSECTION (d)**, proposed by Member Ramos, would, if adopted, provide that if an LEA has adopted the restart model as its final disposition, but petitioners did not request a specific CSO, CMO or EMO, then the LEA shall promptly notify the petitioners and gives them the opportunity to solicit proposals from potential operators. If petitioners opt to solicit such proposals, they must submit them to the LEA. If the petitioners decline to do so, then the LEA shall act to solicit proposals within 15 business days.
6) **OPTIONAL SUBSECTION (e)** also proposed by Member Ramos, would, if adopted, provide that where petitioners opt to solicit a charter proposal pursuant to optional subsection (d), then upon submission of the proposals to the LEA, the LEA shall conduct the rigorous review process set forth in Education Code sections 47605 (b)-(h), (j)(1) and (l), except that the timeline in (b) only begins once the LEA receives the proposal. Where the

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LEA solicits a charter proposal because petitioners have declined to do so, the LEA shall conduct the same rigorous review process.

7) **OPTIONAL SUBSECTION (g)** would, if adopted, require that if an LEA is choosing a charter school as the result of a parent empowerment petition, it must inform parents that parent advisory committees or alternative programs provided by the LEA will not be available for a charter school and that the charter school is not required to comply with the parent waiver requirements of Education Code sections 310 and 311.

"(a) A petition that requests that the LEA adopt the restart model as an intervention at a subject school, and more specifically requests that the subject school be reopened as a charter school under a specific charter school operator, charter management organization or education management organization, shall attach to the petition the proposed charter for the school that contains comprehensive descriptions pursuant to Education Code section 47605(b)(5)(A) through (P)."

Edit: Substantive.

Comments: No comments received.

Consideration: CDE has no objections.

"(b) Upon the receipt by an LEA of a petition that requests a restart model as the intervention, whether or not the petition also requests that the subject school be reopened as a charter school under a specific charter school operator, charter management organization or education management organization, the LEA must follow the provisions of section 4802.1 and first determine whether it will implement the requested intervention option presented in the petition or implement one of the other intervention options in Education Code section 53300."

Edit: Substantive.

Comments: No comments received with the exception of one commenter who claims Section 4802.2 as a whole is "ultra vires," meaning outside of the law.

Consideration: CDE has no objections.

OPTIONAL LANGUAGE IN SUBSECTION (c) to clarify that none of the signature requirements set forth in Education Code section 47605 are necessary for a parent empowerment petition which seeks a restart model and specifically a charter school. Due to a typographical error, the citation to section 47605 in subdivision (c) did not mirror prior versions.

"(c) If an LEA adopts a restart model as an intervention, and the petition has requested that the subject school be operated under a specific charter school operator, charter management organization or education management organization, the LEA shall then

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conduct the rigorous review process required by Education Code section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l) except that the timelines set forth in Education Code section 47605(b) only began after an LEA formally adopts the restart model as an intervention option. The signatures required to establish a charter school pursuant to section 47605(a)(1)
shall not be required."

[OPTIONAL: "The signatures required to establish a charter school pursuant to section *47605(a)(1)* ***through (3) and 47605(b)(3)*** shall not be required."

Edit: Substantive.

Comments: No commenters addressed changes in (c). One commenter objected to the insertion of the optional language. Several commenters agreed with the optional language.

Consideration: Due to a typographical error, the citation to section 47605 in subdivision (c) did not mirror prior versions.

"(d) If the LEA has adopted the restart model as its final disposition, and a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, then the LEA shall, within 15 business days of the adoption of the restart model as an intervention option, solicit charter proposals from charter school operators, charter management organizations and education management organizations."

Edit: Substantive.

Comments: No comments received.

Consideration: CDE has no objections.

OPTIONAL SUBSECTION (d), proposed by Member Ramos, would, if adopted, provide that if an LEA has adopted the restart model as its final disposition but petitioners did not request a specific CSO, CMO or EMO, then the LEA shall promptly notify the petitioners and gives them the opportunity to solicit proposals from potential operators. If petitioners opt to solicit such proposals, they must submit them to the LEA. If the petitioners decline to do so, then the LEA shall act to solicit proposals within 15 business days.

[OPTIONAL SUBSECTION(d) (in place of (d) above): "If the LEA has adopted the restart model as its final disposition, and a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, then the LEA shall promptly notify the petitioners that it has adopted the restart model and give the petitioners the option to solicit charter proposals from charter school operators, charter

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management organizations and education management organizations and select a specific charter school operator. If the petitioners opt to solicit charter proposals and select a specific charter school operator, they must submit the proposed charter school operator to the LEA. If the petitioners inform the LEA that they have declined the option to solicit charter proposals and select a charter school operator, the LEA shall, within 15 business days, solicit charter proposals from charter school operators, charter management organizations and education management organizations."

Edit: Substantive.

Comments: There was one objection to the optional subsection (d). acknowledging the language seeks to clarify what would happen if a particular charter organization is not named in the restart model, but adds the process may not necessarily match up with processes within an LEA.

Consideration: One commenter suggested adding a timeline for the petitioners' response to solicit charter proposals.

"(e) Prior to selecting a particular charter school operator, charter management organization or education management organization, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal."

Edit: Substantive.

Comments: No comments received.

Consideration: CDE has no objections.

OPTIONAL SUBSECTION (e) also proposed by Member Ramos, would, if adopted, provide that where petitioners opt to solicit a charter proposal pursuant to optional subsection (d), then upon submission of the proposals to the LEA, the LEA shall conduct the rigorous review process set forth in Education Code sections 47605 (b)-(h), (j)(1) and (l), except that the timeline in (b) only begins once the LEA receives the proposal. Where the LEA solicits a charter proposal because petitioners have declined to do so, the LEA shall conduct the same rigorous review process.

OPTIONAL SUBSECTION(e) (in place of (e) above): "Where the petitioners opt to submit a charter proposal for a specific operator to the LEA pursuant to section 4802.2, optional subsection (d), upon submission of the charter proposal, the LEA shall then conduct the rigorous review process regarding the specific charter required by Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b)

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through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal. Where the LEA has solicited charter proposals because the petitioners have declined to do so, prior to selecting a particular charter school operator, charter management organization or education management organization, the LEA shall conduct the rigorous review process regarding the specific charter required by Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal."

Edit: Substantive.

Comments: Comments received were in favor of the optional subsection (e). One commenter recommended change "includes" to "shall be".

Consideration: CDE has no objections.

OPTIONAL SUBSECTION (g) would, if adopted, require that if an LEA is choosing a charter school as the result of a parent empowerment petition, it must inform parents that parent advisory committees or alternative programs provided by the LEA will not be available for a charter school and that the charter school is not required to comply with the parent waiver requirements of Education Code sections 310 and 311.

OPTIONAL NEW SUBSECTION "(g) The charter school established by a parent empowerment petition must inform parents of the LEA choosing the charter school model, that parent advisory committees or alternative programs if provided for in the LEA, will not be available in the restart model-charter school nor is the charter school required to comply with the parent waiver requirements of Education Code section 310 and 311."

Edit: Substantive.

Comments: Public comment is split on this addition.

Consideration: Comments in opposition to the addition state the language is inaccurate, as a charter school may choose to retain various committees or programs already in practice at a school site, which may include parent advisory committees or alternative programs. Commenters also stated it seems unnecessary and confusing to single out these "two exemptions from the myriad of laws to which a charter school may or may not comply."

OPTIONAL SECTION 4802.2, as proposed by a group of stakeholders, would, if adopted, make the following changes:

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1) While it would similarly require that a petition requesting adoption of the restart model and, more specifically, a particular CSO, CMO or EMO, must conduct a rigorous review process as set forth in Education Code section 47605(b), with the exception of section 47605(b)(3), it eliminates the provision that the timelines of the rigorous review process do not begin until 25 business days after the petition is received by the LEA.
2) While it similarly provides that a petition that requests a restart model but does not request that it be run by a specific CSO, CMO or ESO, requires an LEA to solicit proposals, it would specify that the solicitation period cannot exceed 90 calendar days.
3) It would give an LEA the choice when a restart petition does not designate a specific CSO, CMO or EMO of either soliciting proposals itself or direct the parents to submit proposals within 90 calendar days and clarify that such proposals would then go through the same rigorous review process set forth in section 47605(b), with the exception of (b)(3).
4) It would provide that if the parents request a restart model and designate an EMO to operate the school, the LEA shall work in good faith to contract with a provider selected by the parents. In the absence of parental input, the LEA would have to solicit proposals from EMOs and would choose one using the same rigorous review process, unless it determines it is unable to implement the restart model.

[OPTIONAL SECTION §4802.2 (in place of 4802.2 above):
§ 4802.2. Restart Requirements for Parent Empowerment Petitions.

(a) Except where specifically designated in this section, a charter school proposal submitted through a parent empowerment petition, shall be subject to all the provisions of law that apply to other charter schools.

(b) Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed. The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if the petition that requests that the subject school be reopened under a specific charter operator, charter management organization or education management organization otherwise meets all the requirements of Education Code section 53300.

(c) A petition that requests that the subject school be reopened under a specific charter school operator, charter management organization or education management organization may be circulated for signature with the proposed charter for the school. Upon receipt of the petition that requests a restart model as intervention and that includes a charter petition, the LEA must follow the provisions of section 4802.1 and determine whether it will implement the requested intervention options in Education Code section 53300. If a petition requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g) then the rigorous review process required by Education Code section 53300

and section 4804 shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3).

(d) If a parent empowerment petition does not include the proposed charter but requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA must either:

(1) Immediately solicit charter proposals from charter school operators, charter management organizations and education management organizations and, shall select a charter school operator, charter management organization or education management organization, through the rigorous review process required by Education Code section 53300 and section 4804. The rigorous review process shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3), and shall begin at the end of a solicitation period not to exceed 90 calendar days; or,

(2) Direct the parent petitioner(s) to submit a charter proposal that meets the requirements of EC section 47605(b), excepting 47605(b)(3), within 90 calendar days. Upon submittal of the charter proposal, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which shall be the review process and timelines set forth in Education Code section 47605(b) excepting 47605(b)(3).

(e) If the parents petition for a restart option to operate the school under an educational management organization that is not a charter school, the LEA shall work in good faith to implement a contract with a provider selected by the parents. In the absence of parent selection of a specific provider, the LEA shall immediately solicit proposals from educational management organizations, and shall select an education management organization, through the rigorous review process required by Education Code section 53300 and section 4804 unless the LEA is unable to implement the option requested by the parents and shall implement one of the other options specified in Education Code section 53300.

Edit: Substantive. This version proposed by a group of stakeholders prior to publication of proposed changes to second 15-day regulations.

Comments: Most commenters advocate adoption of Optional Section 4802.2 in lieu of Section 4802.2. One commenter was against this version.

Consideration: This version may be confusing for the various parties and create potential for litigation. While it states that an LEA must first determine whether it will implement the requested intervention options in Ed. Code section 53300, other language in this proposed section indicate that the LEA must go through the rigorous review process and then determine whether it will implement the option requested.

SECTION 4808

SECTION 4808 includes an option within it, proposed by a stakeholder group which, if adopted, would clarify that any actions taken in reasonable reliance upon the emergency regulations are deemed in compliance with these regulations, but only to the extent permitted by law.

"The regulations in Article 1 are to apply prospectively. Any actions taken in reasonable reliance upon emergency regulations in effect at the time are to be deemed in compliance with these regulations **OPTION:** to the extent permitted by law."

Edit: Substantive.

Comments: Comments received were in favor of the additional language.

Consideration: CDE has no objections.

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State of California **State Board of Education**

ITEM ADDENDUM

DATE: July 1, 2011

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Sue Burr, Executive Director
California State Board of Education

RE: Item No. 1

SUBJECT: Parent Empowerment — Approve Commencement of a Third 15-day Public Comment Period for Proposed Additions to the *California Code of Regulations*, *Title 5*, Sections 4800–4808.

RECOMMENDATION

The California Department of Education (CDE) has provided some background documents for consideration. The State Board of Education (SBE) staff recommends that the SBE consider the attached proposed integrated set of options and amendments to the proposed regulations, and take the following actions:

- Approve the proposed changes to the proposed regulations, as directed by SBE;
- Direct CDE staff to format the proposed changes as required by the Office of Administrative Law to illustrate the changes to the text of the proposed regulations;
- If no relevant comments to the proposed changes are received during the third 15-day public comment period, the proposed regulations with changes are deemed adopted, and the California Department of Education (CDE) is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the third 15-day public comment period, CDE is directed to place the proposed regulations on the SBE's September 2011 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

ATTACHMENT

Attachment 1: Proposed Changes to the *California Code of Regulations*, Title 5, Sections 4800–4808 (21 Pages).

The State Board of Education Executive Staff has created the following composite document which reflects changes suggested during the prior public comment periods and during public testimony during State Board of Education meetings. This document is intended to be used to help guide the discussion during the July 13-14, 2011 State Board of Education meeting.

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 5.2.5. Parent Empowerment

Subchapter 1. Parent Empowerment

Article 1. General Provisions

§ 4800. Intent.

~~It was the intent of the Legislature and remains the intent of the State Board of Education (SBE) for~~ The Parent Empowerment lawshall ~~to~~ remain valid in the event of changes to federal law referenced within the legislative language of Chapters 2 and 3 of the 5th Extraordinary Session Statutes of 2010, ~~Senate Bill X5 4~~ to the extent allowable under the law.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code; and 20 U.S.C. Section 6316.

§ 4800.1. Definitions.

(a) "Elementary school" means a school, regardless of the number of grade levels, whose graduates matriculate into **either** a subject **elementary,** middle or high school.

(b) "Eligible signature" means a signature of a parent or legal guardian of a pupil that can be counted toward meeting the requirement that at least one-half of the parents or legal guardians of pupils have signed the petition as set forth in Education Code section 53300.

(c) "Final disposition" means the action taken by the local educational agency (LEA) to implement the requested intervention option presented by

a petition or implement one of the other intervention options as set forth in Education Code section 53300.

(d)~~**(b)**~~ “High school” means four-year high schools~~**, junior high schools**~~, senior high schools, continuation high schools, and evening schools.

(e)~~**(d)**~~ “Intervention” or “requested intervention” means:

(1) one of the four interventions (turnaround model, restart model, school closure, and transformation model) identified pursuant to paragraphs (1) to (4), inclusive, of subdivision (a) of Education Code section 53202 and as further described in Appendix C of the Notice of Final Priorities, Requirements, Definitions, Section Criteria for the Race to the Top program published in Volume 74 of Number 221 of the Federal Register on November 18, 2009; or

(2) the alternative governance arrangement pursuant to Title 20 U.S.C. Section 6316(b)(8)(B)(v).

(f)~~**(c)**~~ “Middle school” means a school, regardless of the number of grade levels, whose graduates matriculate into a subject high school. Middle school also means a junior high school whose graduates matriculate into a subject senior high school.

(g) “Normally matriculate” means the typical pattern of attendance progression from an elementary school to a subject elementary school, from an elementary school to a subject middle or high **school or from a middle school to a subject high school, as determined by the LEA(s) pursuant to established attendance boundaries,** published **policies or practices** in place on the date the petition is submitted**.**

(h)~~**(e)**~~ “Parents or legal guardians of pupils” means the natural or adoptive parents, legal guardians, or other persons holding the right to make educational decisions for the pupil pursuant to Welfare and Institutions Code section 361 or 727 or Education Code section**s 56028 or** 56055, including foster parents **who hold rights to make educational decisions**, on the date the petition is submitted.

(i)~~**(f)**~~ “Petition” means a petition requesting a**n** ~~**local educational agency (**~~LEA~~)~~ to implement one of the interventions defined in subdivision **(e)**~~**(d)**~~.

(j)~~**(g)**~~ “Pupils attending the subject school or elementary or middle schools

that normally matriculate into a subject middle or high school" means a pupil~~s~~ ~~attending~~ enrolled in the school on the date the petition is submitted to the LEA.

(k)~~(h)~~ "Subject school" means a school ~~**not**~~ identified **by the Superintendent of Public Instruction following the release of the annual adequate yearly progress report,** as a ~~**persistently lowest-achieving**~~ school **that:** ~~**under Education Code section 53201 which, after one full school year, is subject to corrective action pursuant to 20 U.S.C. Section 6316(b)(7) and continues to fail to make adequate yearly progress, and has an Academic Performance Index (API) score of less than 800.**~~

(1) Is not one of the persistently lowest-achieving schools identified by the SBE;

(2) Has been in corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act for at least one full academic year;

(3) Has failed to make adequate yearly progress (AYP); and

(4) Has an Academic Performance Index (API) score of less than 800.

(5): A school that exits Program Improvement shall not be subject to continued identification on the Parent Empowerment list.

(l) "Cannot implement the specific recommended option" means that an LEA is unable to implement the intervention requested in the petition and has ~~a compelling interest to support~~ provided in writing, during a regularly scheduled public meeting, the considerations and reasons for reaching **such a finding.**

(m) "Matriculating School" means all elementary or middle schools that normally matriculate into a subject elementary, middle, or high school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections **53201,** 53202**,** ~~**and**~~ 53300, **53303, 56028 and 56055,** Education Code; and 20 U.S.C. Section 6316.

§ 4800.3. Requirement to Serve All Pupils.

Every pupil that attended a subject school prior to the implementation of an intervention shall continue to be enrolled in the school during and

after an intervention is implemented pursuant to Education Code section 53300, unless the parent or legal guardian of the pupil chooses to enroll the pupil in another school or the school is closed. In addition, any pupil who resides in the attendance area of the subject school during or after the implementation of an intervention has a right to attend the school, subject to any laws or rules pertaining to enrollment.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300, Education Code.

§ 4800.5. Parental Notice.

(a) The CDE shall create a website for parents and guardians to obtain further information on circulating a parent empowerment petition.

(b) A LEA may create a web site that lists the schools in the LEA subject to the provisions of the Parent Empowerment law, including enrollment data and attendance boundaries for each school. The web site may also ~~and~~ inform~~ing~~ parents and legal guardians of pupils how they may:

(1) Sign a petition requesting the school district to implement one or more interventions to improve the school, and

(2) Contact community-based organizations or work with individual school administrators and parent and community leaders to understand the school intervention options and provide input about the best options for the school.

(3) Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Section~~.~~ 6301 et seq.), on the date the notice of restructuring planning or restructuring status, Program Improvement Year 4 or later, is given pursuant to federal law, the LEA shall provide the parents and guardians of all pupils enrolled in a school in restructuring planning or restructuring status with notice that the school may be eligible for a parent empowerment petition to request a specific intervention pursuant to Education Code section 53300 and shall list the CDE website address created pursuant to section 4800.5 (a). This notice, and any other written communication from the school or the LEA to parents or legal guardians

of pupils, must meet the language requirements of Education Code section 48985.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 48985 and 53300, Education Code; and 20 U.S.C. Section 6301.

§ 4801. Petition Signatures.

~~(a) A petition may only contain signatures of parents or legal guardians of pupils attending the subject school or a combination of signatures of parents or legal guardians of pupil(s) attending the subject school and all the elementary or middle schools that normally matriculate into a subject middle or high school. A petition may not consist solely of signatures of parents or legal guardians of pupils attending only the elementary or middle schools that normally matriculate into a subject middle or high school.~~

(a)~~(b)~~ **~~A petition may be signed by a parent or legal guardian once for each of his or her pupils attending the subject school or, if the petition contains a combination of signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into a subject middle or high school, it may be signed by a parent or legal guardian once for each of his or her pupils attending the subject school or the elementary or middle schools that normally matriculate into the subject middle or high school.~~ A petition** ~~must~~ shall **contain signatures of parents** ~~or~~ ***or legal*** **guardians of pupils attending the subject school**, or ~~and~~ **may contain** a combination of **signatures of parents** and ~~or~~ **legal guardians of pupils attending** ~~**only**~~ **the** ~~elementary or middle schools that normally matriculate into a the subject middle or high school~~ subject school and signatures of parents or legal guardians of pupils attending the matriculating schools. A petition may not consist solely of signatures of parents or legal guardians of pupils attending the matriculating schools.

(b)~~(c)~~ Only one parent or legal guardian **per pupil** may sign a petition.

(c)~~(d)~~ The petition must have boxes ~~**with room**~~ *that are* **consecutively numbered commencing with number 1, with sufficient space** for the

signature of each petition signer as well as his or her printed name, **~~address, city or unincorporated community name and zip code,~~** date, pupil's name, **the pupil's date of birth,** the name of the school the pupil is currently attending, and the pupil's current grade.

~~(1) The petition shall state that the disclosure of the address, city or unincorporated community name and zip code is voluntary, and cannot be made a condition of signing the petition.~~

(d)~~(e)~~ **~~The petition boxes referenced in subdivision (d) must be consecutively numbered commencing with the number 1 for each petition section.~~ The boxes described in subdivision** (c)~~(d)~~ **may also have space for the signer's address, city or unincorporated community name, and zip code, or request other information, and if so, the petition shall make clear that providing such information is voluntary, and cannot be made a condition of signing the petition.**

(e)~~(f) Because a~~ A petition may be signed by a parent or a legal guardian once for each of his or her pupils attending the subject school or, if the petition contains a combination of signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into a subject middle or high school, once for each of his or her pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject middle or high school.~~,~~ S~~s~~eparate petition boxes must be completed by the parent or legal guardian for each of his or her pupils.

(f)~~(g)~~ A petition may be circulated and presented in sections, so long as each section complies with the requirements **~~of~~ set forth in** this section and section 4802 regarding the content of the petition.

(g) Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition. Nor shall signature gatherers make any threats of coercive action, false statements or false promises of benefits to parents or legal guardians in order to persuade them to sign a petition, except that signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by implementing any intervention described in these regulations. Signature gatherers, students,

school site staff, LEA staff, members of the community and parents and legal guardians of eligible pupils shall be free from harassment, threats, and intimidation related to circulation or signature of a petition, or to the discouraging of signing a petition or to the revocation of signatures from the petition. Signature gatherers shall disclose if they are being paid, and shall not be paid per signature.

(h): All parties involved in the signature gathering process shall adhere to all school site hours of operation, school and LEA safety policies, and visitor sign in procedures.

(i): School or district resources shall not be used to impede the signature gathering process pursuant to this section.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 53300, Education Code.

§ 4802. Content of the Petition.

The petition ~~or~~ **and** each section of the petition shall contain the following elements:

(a) A heading which states that it is a Petition of Parents, Legal Guardians, and Persons Holding the Right to Make Educational Decisions for Pupils, Including Foster Parents **who hold rights to make educational decisions** to **request** ~~**Implement**~~ an Intervention **be implemented** at the specified subject school and to be submitted to a specified LEA;

(b) A statement that the petition seeks the signatures of the parents or legal guardians of the pupils attending the subject school or, in the alternative, the signatures of the parents or legal guardians of the pupils attending the subject school and the signatures of the parents or legal guardians of the pupils attending elementary or middle schools who would normally matriculate into the subject school;

(c)~~**(b)**~~ The name and public contact information of the person to be contacted by either persons interested in the petition or by the LEA;

(d)~~**(c)**~~ Identification of the requested intervention;

(e)~~(d)~~ A description of the requested intervention using the language set forth in either sections 4803, 4804, 4805, 4806, or 4807**, without omission to ensure full disclosure of the impact of the intervention**;

(f)~~(e)~~ The name of the subject school;

(g)~~(f)~~ Boxes as designated in section 4801(d) **and (e)**;

(h)~~(g)~~ An affirmation that the signing parent or legal guardian is requesting the LEA to implement the identified intervention at the subject school; and

(i)~~(h)~~ A request to an LEA to implement the restart model intervention identified pursuant to paragraph (2) of subdivision (a) of Education Code section 53202 may also request that the subject school be reopened under a specific charter school operator, charter management organization or education management organization **and, if so, that information must be clearly stated on the front page of the petition** *including contact information of the charter school operator, charter management organization or education management organization* ~~**that has been selected by a rigorous review process**~~.

(j) The names of any agencies or organizations ~~that the person identified in subdivision (c) is affiliated with~~ **that are supporting the petition, either through direct financial assistance or in-kind contributions of staff and volunteer support, must be prominently displayed on the front page of the petition.**

(k) The CDE shall develop a sample petition that can be used by interested petitioners. The sample petition shall be available on the CDE website for interested petitioners to use. The CDE shall make the sample petition available in other languages pursuant to Education Code section 48985. Petitioners shall not be required to use the sample petition however alternate petitions must contain all required components pursuant to statutory and regulatory requirements.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code.

§4802.05: Submission of Petition.

(a) Petitioners may not submit a petition until they reach or exceed the 50

percent threshold based on accurate and current enrollment data provided by the LEA. The date of submission of the petition shall be the start date for implementation of all statutory and regulatory requirements.

(b) An exception shall be made for a one-time resubmission opportunity to correct a petition based on errors identified by the LEA, verify signatures after a good faith effort is made by the LEA to do so first, or submit additional signatures. The start date for a resubmitted petition shall be the date it is resubmitted. No rolling petitions shall be accepted by the LEA.

(c) At the time of submission the petitioners shall submit a separate document that identifies at least one but no more than five lead petitioners with their contact information.

(d) The role of lead petitioners is to assist and facilitate communication between the parents who have signed the petition and the LEA. The lead petitioner contacts shall not be authorized to make decisions for the petitioners or negotiate on behalf of the parents.

§ 4802.1. Verification of Petition Signatures and Obligations of the LEA.

(a) An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

(b)~~(a)~~ Upon receipt of the petition, the LEA may make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations. The LEA and matriculating LEAs shall use common verification documents that contain parent or guardian signatures to verify petition signatures such as emergency verification cards signed by all parents or guardians. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school. The matriculating LEA or school shall be required to provide information necessary to the subject school and LEA in order to assist in verifying signatures. An LEA shall not invalidate the signature of a

parent or legal guardian of an eligible pupil on a minor technicalityassuming the parent or legal guardian is entitled to sign it. The LEA and the matriculating LEA or school shall make a good faith effort to contact parents or guardians when a signature is not clearly identifiable including phone calls to the parent or guardian.

(c)~~(b)~~ If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school unless that school has exited federal Program Improvement and is at or over 800 on the Academic Performance Index.

(d)~~(c)~~ If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether parents or legal guardians of at least one-half of pupils ~~at least one-half of the parents or legal guardians of all students pupils~~ attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school on the date the petition is submitted to the LEA shall be counted.

(e)~~(d)~~ If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school, then for purposes of calculating whether ~~at least one-half of~~ the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school and the parents or legal guardians of pupils attending the elementary or middle schools who would normally matriculate into the subject school at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether the parents or legal guardians of at least one-half of pupils

attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition. There is no specified ratio required of signatures gathered at each school, rather the total ratio of signatures gathered must meet the one-half requirement.

(f)~~(e)~~ In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition. The identified lead petitioners for the petition shall be consulted to assist in contacting parents or legal guardians when the LEA fails to reach a parent or legal guardian.

(g)~~(f)~~ Upon receipt, the LEA may, within ~~20 25 business~~ 40 calendar days, return the petition to the person designated as the contact person or persons as specified in section 4802(c), if the LEA determines any of the following:

(1) One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

(2) The school named in the petition is not a subject school; or

(3) The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition and its supporting findings.

(h) If the LEA finds that sufficient signatures cannot be verified by the LEA they shall immediately notify the lead petitioner contacts and provide the lead petitioner the names of those parents and legal guardians they cannot verify. The lead petitioner contacts shall be provided 60 calendar days to assist the LEA to verify the signatures. A number of methods may be used including but not limited to an official notarization process or having the parent or guardian appear at the school or district office.

(i) If the LEA finds a discrepancy or problem with a submitted petition they shall notify the lead petition contacts in writing and request assistance and clarification prior to the final disposition of the petition. The LEA shall identify which signatures need verification, any errors found in the petition or need for further clarification regarding the petition.

(j)~~(h)(g)~~ If the petition is returned pursuant to section 4802.1(g)(1), the same

petition may be resubmitted to the LEA with ~~additional~~ verified signatures as long as no substantive changes are made to the petition. The petitioners shall be provided one resubmission opportunity which must be completed within a window of 60 calendar days after the return of the petition pursuant to 4802.1. This is the same window for verification of signatures and any corrections or additional signatures submitted. The LEA shall have 25 calendar days to verify the resubmitted signatures, additional signatures or corrections to the petition. The resubmitted petition may not contain substantive changes or amendments. If substantive changes are made to the petition, it must be recirculated for signatures before it may be ~~resubmitted~~ submitted to the LEA and it shall be deemed a new petition.

(k)~~(i)(g)~~ If the LEA does not return the petition ~~pursuant to subdivision (g)(f),~~ the LEA shall have 45 ~~business~~ calendar days from the date the petition is received to reach a final disposition. The date may be extended by an additional 25 calendar days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

(l)~~(j)(h)~~ The LEA shall notify the SSPI and the SBE in writing within fifteen calendar days of its receipt of a petition and within five calendar days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the written finding stating the reason it cannot implement the specific recommended option designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

(m)~~(k)(i)~~ If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to Education Code section 53302, and the SSPI and the SBE receive two or more notifications of final dispositions that agree to implement an intervention on the same day, the petition will be chosen by random selection.]

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202, 53300, 53301 and 53302, Education Code.

§ 4802.2. Restart Requirements for Parent Empowerment Petitions.

(a) Except where specifically designated in this section, a charter school proposal submitted through a parent empowerment petition, shall be subject to all the provisions of law that apply to other charter schools.

(b) Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed.

The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if the petition that requests that the subject school be reopened under a charter operator, charter management organization or education management organization otherwise meets all the requirements of Education Code section 53300.

(c) A petition that requests that the subject school be reopened under a specific charter school operator, charter management organization or education management organization may be circulated for signature with the proposed charter for the school. Upon receipt of the petition that requests a restart model as intervention and that includes a charter petition, the LEA must follow the provisions of section 4802.1 and determine whether it will implement the requested intervention options in Education Code section 53300. If a petition requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g) then the rigorous review process required by Education Code section 53300 and section 4804 shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3).

(d) If a parent empowerment petition does not include the proposed charter but requests that the subject school be operated under a charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA shall promptly notify the petitioners that it has adopted the restart model and give the petitioners the option to solicit charter proposals from charter school

operators, charter management organizations and education management organizations and select a specific charter school operator or decline to do so.

(1) If the petitioners opt to solicit charter proposals and select a specific charter school operator, they must submit the proposed charter school operator to the LEA within 90 calendar days. Upon submittal of the charter proposal, the LEA shall conduct the rigorous review process required by Education Code section 53300 and section 4804, which shall be the review process and timelines set forth in Education Code section 47605(b) excepting 47605(b)(3).

(2) If the petitioners inform the LEA that they have declined the option to solicit charter proposals and select a charter school operator, the LEA shall, within 20 calendar days, solicit charter proposals from charter school operators, charter management organizations and education management organizations.Thereafter, the LEA shall select a charter school operator, charter management organization or education management organization, through the rigorous review process required by Education Code section 53300 and section 4804. The rigorous review process shall be the review process and timelines set forth in Education Code section 47605(b), excepting 47605(b)(3), and shall begin at the end of a solicitation period not to exceed 90 calendar days.

(e) If the parents petition for a restart option to operate the school under an educational management organization that is not a charter school, the LEA shall work in good faith to implement a contract with a provider selected by the parents. In the absence of parent selection of a specific provider, the LEA shall immediately solicit proposals from educational management organizations, and shall select an education management organization, through the rigorous review process required by Education Code section 53300 and section 4804 unless the LEA is unable to implement the option requested by the parents and shall implement one of the other options specified in Education Code section 53300.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47605 and 53300, Education Code.

§ 4803. Description of Intervention – Turnaround Model.

(a) A turnaround model is one in which a**n** ~~**local educational agency (**~~LEA~~**)**~~ must:

(1) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(2) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students;

(A) Screen all existing staff and rehire no more than 50 percent; and

(B) Select new staff;

(3) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

(4) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(5) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new “turnaround office” in the LEA, hire a “turnaround leader” who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or State Educational Agency (SEA) to obtain added flexibility in exchange for greater accountability;

(6) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards;

(7) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(8) Establish schedules and implement strategies that provide increased

learning time (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59805 (Nov.18, 2009); and

(9) Provide appropriate social-emotional and community-oriented services and supports for students.

(b) A turnaround model may also implement other strategies such as:

(1) Any of the required and permissible activities under the transformation model; or

(2) A new school model (e.g., themed, dual language academy).

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4804. Description of Intervention – Restart Model.

A restart model is one in which a**n** ~~**local educational agency (**~~LEA~~**)**~~ converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides “whole-school operation” services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code; and 20 U.S.C. Section 6301.

§ 4805. Description of Intervention – School Closure.

School closure occurs when a**n** ~~**local educational agency (**~~LEA~~**)**~~ closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data is not yet available.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections

53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4806. Description of Intervention – Transformation Model.

A transformation model is one in which a**n** ~~**local educational agency (**~~LEA~~**)**~~ implements each of the following strategies:

(a) Developing and increasing teacher and school leader effectiveness.

(1) Required activities. The LEA must:

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that:

1. Take into account data on student growth (as defined in the United States Department of Education notice published in the Federal Register at 74 Federal Register 59806 (Nov. 18, 2009)**)** as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduations rates; and

2. Are designed and developed with teacher and principal involvement.

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff with ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school's comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are

designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(2) Permissible activities. An LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as:

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(b) Comprehensive instructional reform strategies.

(1) Required activities. The LEA must:

(A) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(2) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as:

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a school wide “response-to-intervention” model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited-English-proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools:

1. Increasing rigor by offering opportunities for students to enroll in advanced

coursework (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low-achieving students can take advantage of these programs and coursework;

2. Improving student transition from middle to high school through summer transition programs or freshman academies;

3. Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

4. Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(c) Increasing learning time and creating community-oriented schools.

(1) Required activities. The LEA must:

(A) Establish schedules and implement strategies that provide increased learning time (as defined in 74 Federal Register 59805 (Nov. 18, 2009)); and

(B) Provide ongoing mechanisms for family and community engagement.

(2) Permissible activities. An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as:

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or pre-kindergarten.

(d) Providing operational flexibility and sustained support.

(1) Required activities. The LEA must:

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the State Educational Agency (SEA), or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(2) Permissible activities. The LEA may also implement other strategies for providing operational flexibility and intensive support, such as:

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil school-based budget formula that is weighted based on student needs.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 53202 and 53300, Education Code**;** and 20 U.S.C. Section 6301.

§ 4807. Description of Intervention – Alternative Governance Arrangement.

Alternative governance is one in which an LEA institutes any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under Section 6311(b)(2) of the federal Elementary and Secondary Education Act. ~~**In the case of a rural LEA with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools have a School Locale Code of 7 or 8, as determined by the Secretary, the Secretary shall, at such agency's**~~

~~**request, provide technical assistance to such agency for the purpose of implementing this clause.**~~

NOTE: Authority cited: Section 33031, Education Code. Reference: Section**s** **53202 and** 53300, Education Code; and 20 U.S.C. Sections 6311 and 6316.

§ 4808. Prospective Effect of Regulations.

The regulations in Article 1 are to apply prospectively. Any actions taken in reasonable reliance upon emergency regulations in effect at the time are to be deemed in compliance with these regulations.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 11346.1 and 11349.6, Government Code.

5-20-11 [California Department of Education]

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 2

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate. There is no specific action recommended at this time.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is a routine item for the purpose of informing the SBE on new or recent developments relating to the Elementary and Secondary Education Act (ESEA) and other federal programs.

SUMMARY OF KEY ISSUES

Update on the School Improvement Grant

During the week of March 7, 2011, two monitoring teams from the U.S. Department of Education (ED) reviewed four School Improvement Grant (SIG) local educational agencies, two each in northern and southern California. On May 6, 2011, the ED provided the CDE with their draft Targeted Monitoring Review of School Improvement Grants Under Section 1003(g) of the ESEA, which allowed five business days for the State Education Agency to provide any technical comments and edits. CDE's response to the draft report was submitted to the ED on May 13, 2011. (See Attachment 1.) On May 19, 2011, the CDE received the Targeted Monitoring Review. (See Attachment 2.) CDE's initial response, due 30 business days from receipt of the Targeted Monitoring Review, will be provided as an item Addendum.

FISCAL ANALYSIS (AS APPROPRIATE)

Any state or local educational agency that does not abide by the mandates or provisions of the ESEA is at risk of losing federal funding.

ATTACHMENT(S)

Attachment 1: California Department of Education Technical Comments and Edits in Response to the Draft Targeted Monitoring Review of School Improvement Grants (1 Page)

Attachment 2: May 13, 2011, U.S. Department of Education California Targeted Monitoring Review of School Improvement Grants Under Section 1003(g) of the Elementary and Secondary Education Act of 1965 March 7–11, 2011 (21 Pages)

Attachment 3: The California Department of Education Response to U.S. Department of Education California Targeted Monitoring Review of School Improvement Grants Under Section 1003(g) of the Elementary and Secondary Education Act of 1965 March 7–11, 2011, will be provided in an Item Addendum.

California Department of Education Technical Comments and Edits in Response to the Draft Targeted Monitoring Review of School Improvement Grants

In California the state education agency (SEA) is the state board of education, not the department. Therefore, we would like to request that you revise **Critical Element 1-Finding (1)** on page 17 as follows:

Finding (1): The ~~CDE~~ SEA did not ensure that its application process was carried out consistent with its approved SIG application. The CDE conducted the application review and identified schools to be funded. ~~However, prior to receiving State Board approval the CDE decided to also award funds to LEAs for two additional schools whose review scores were below the cut off score initially needed for approval. The CDE then asked the other LEAs with approvable applications to reduce their budgets by 10 percent in order to ensure that the two additional LEAs could be funded.~~ The SEA directed the CDE to prepare a request for waiver not to carry over the required 25 percent of 2009 SIG funds and to impose a school size funding cap for each school. This allowed all approvable priority one and priority two LEAs to be funded, regardless of application score. The CDE then asked all LEAs with approvable applications to reduce their budgets, not to exceed the school size maximum allocation amount.

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Honorable Tom Torlakson
Superintendent of Public Instruction
California Department of Education
721 Capitol Mall
Sacramento, California 95814

Dear Superintendent Torlakson:

During the week of March 7 - March 11, 2011, a team from the U.S. Department of Education's (ED) Student Achievement and School Accountability Programs (SASA) office reviewed the California Department of Education's (CDE) administration of Title I, Section 1003(g) (School Improvement Grants (SIG)) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. As part of its review, the ED team interviewed staff at the State educational agency (SEA) and two local educational agencies (LEAs). The ED team also conducted site visits to two schools implementing the SIG intervention models, where they visited classes and interviewed school leadership, teachers, parents, and students. Enclosed you will find ED's final monitoring report based upon this review.

In February 2011, SASA began its first year of monitoring of the SIG program. The primary purpose of monitoring is to ensure that the SEA carries out the SIG program consistent with the final requirements. Additionally, ED is using its monitoring review to observe how LEAs and schools are implementing the selected intervention models and identify areas where technical assistance may be needed to support effective program implementation.

In line with these aims, the enclosed monitoring report is organized in three sections: (1) *Summary and Observation,* (2) *Technical Assistance Recommendations,* and (3) *Monitoring Findings.* The *Summary and Observations* section describes the SIG implementation occurring in the schools and districts visited, initial indicators of success, and any outstanding challenges relating to implementation. The *Technical Assistance Recommendations* section contains strategies and resources for addressing technical assistance needs identified during ED's visit. Finally, the *Monitoring Findings* section identifies any compliance issues within the six indicator areas reviewed and corrective actions that the SEA is required to take.

The CDE has 30 business days from receipt of this report to respond to all of the compliance issues contained herein. ED staff will review your response for sufficiency and will determine which areas are acceptable and which require further documentation of implementation. ED will allow 30 business days for receipt of this further documentation, if required. ED recognizes that some corrective actions may require longer than the prescribed 30 days, and in these instances, ED will work with the CDE to determine a reasonable timeline. In those instances where additional time is required to implement specific corrective actions, you must submit a request for such an extension in writing to ED, including a timeline for completion for all related actions.

Each State that participates in an onsite monitoring review and that has significant compliance findings in one or more of the programs monitored will have a condition placed on that program's grant award specifying that the State must submit (and receive approval of) documentation that all compliance issues identified in the monitoring report have been corrected. When documentation sufficient to address all compliance areas has been submitted and approved, ED will then remove the condition from your grant award.

With regards to the *Technical Assistance Recommendations* provided, we encourage you to employ these strategies to further support the effective implementation of the SIG program. ED staff will follow up with your staff over the next few months to see how the CDE is working to address these issues and make use of this technical assistance.

Please be aware that the observations reported, issues identified, and findings made in the enclosed report are based on written documentation or information provided to ED by SEA, LEA, or school staff during interviews. They also reflect the status of compliance in Indiana at the time and locations of ED's onsite review. The CDE may receive further communication from ED that will require you to address noncompliance occurring prior or subsequent to the onsite visit.

The ED team would like to thank Christine Swenson, Interim Director, District and School Improvement Division, and her staff for their hard work and the assistance they provided prior to and during the review in gathering materials and providing access to information in a timely manner.

We look forward to working further with your staff to resolve the issues contained in this report and to improve the quality of the SIG program in California.

Sincerely,

Patricia A. McKee

Patricia A. McKee
Acting Director
Student Achievement and
School Accountability Programs

Enclosure

cc: Christine Swenson

CALIFORNIA
Targeted Monitoring Review of School Improvement Grants (SIG) under section 1003(g) of the Elementary and Secondary Education Act of 1965
March 7 - 11, 2011

BACKGROUND

Overview of SIG Schools in California

Tier	Number of FY 2009 Eligible SIG Schools	Number of FY 2009 Served SIG Schools
Tier I	135	66
Tier II	48	25
Tier III	2708	0

Implementation of SIG School Intervention Models

Models	Number of Schools implementing the Model
Turnaround	29
Transformation	56
Restart	5
Closure	1

MONITORING TRIP INFORMATION

Monitoring Visits

LEA Visited	San Francisco Unified School LEA (SFUSD), Los Angeles Unified School LEA (LAUSD), San Bernadino City School LEA (SBCSD)
School Visited	San Gorgonia (SBUSD); Gompers Middle Schools (LAUSD); Everett Middle School (SFUSD)
Model Implemented	San Gorgonio High School: Transformation Model Gompers Middle School: Restart Model Everett Middle School: Turnaround Model
FY 2009 Funding Awarded (over three years)	Los Angeles Unified School LEA (for 9 Tier I and II SIG schools): $52 million Gompers Middle School: $5.6 million over 3 years San Francisco Unified School LEA (for 10 Tier I and II SIG schools): $52 million Everett Middle School: $5.6 million over 3 years San Bernadino City School LEA (for 11 Tier I and II SIG schools: $58 million San Gorginio High School: $6 million over 3 years
SEA Visited	California Department of Education
FY 2009 SIG Award	$412,732,454

Staff Interviewed

- **California Department of Education Staff**
- **San Francisco Unified School LEA Staff**
- **Everett Middle School Staff:** Principal, School Leadership Team, 4 Teachers, 10 Parents, Students, and 3 Classroom Visits
- **Los Angeles Unified School LEA Staff**
- **Gompers Middle School Staff:** Principal, School Leadership Team, 4 Teachers, 3 Parents, Students,

and 4 Classroom Visits

- **San Bernardino City School LEA Staff**
- **San Gorgonio High School Staff:** Principal, School Leadership Team, 5 Teachers, 8 Parents, and 4 Classrooms Visits

U.S. Department of Education Staff	
Team Leader	Susan Wilhelm
Staff Onsite	Carlas McCauley, Nola Cromer, Zahreen Ghaznavi and Todd Stephenson

OVERVIEW OF MONITORING REPORT

The following report is based on U.S. Department of Education's (ED) on-site monitoring visit to California from March 7 – 11, 2011 and review of documentation provided by the State educational agency (SEA), local educational agencies (LEAs), and schools. The report consists of three sections: *Summary and Observations, Technical Assistance Recommendations,* and *Monitoring Findings.* The *Summary and Observations* section describes the implementation of the SIG program by the SEA, LEAs, and schools visited, initial indicators of success, and outstanding challenges being faced in implementation. This section focuses on how the SEA, LEAs, and schools visited are implementing the SIG program with respect to the following five areas: school climate, staffing, teaching and learning, use of data, and technical assistance. The *Technical Assistance Recommendations* section identifies strategies and resources for addressing technical assistance needs. The *Monitoring Findings* section identifies areas where the SEA is not in compliance with the final requirements of the SIG program and indicates required actions that the SEA must take to resolve the findings.

Please Note: The observations and descriptions included in this report reflect the specific context of the limited number of classrooms visited and interviews conducted at a small number of schools and LEAs within the State. As such, they are a snapshot of what was occurring at the LEA and school levels, and are not meant to represent a school's, LEA's, or State's entire SIG program. Nor are we approving or endorsing any particular practices or approaches by citing them.

SUMMARY AND OBSERVATIONS

Climate

San Francisco Unified School District

San Francisco Unified School District (SFUSD) selected the Turnaround Model for Everett Middle school, the site visited by the U.S. Department of Education staff. According to the needs analysis, SFUSD selected the turnaround model hoping that the implementation would encourage teachers to collectively adopt and fully commit to the necessary reform activities. As part of the LEA application, SFUSD reported in its needs analysis that during the 2009-10 school year (the year prior to SIG implementation), Everett staff focused their attention on developing consistent classroom management routines. The analysis reported that a small number of students who brought knives or other dangerous objects to school disrupted the collectively enforced tone of safety and order. The needs analysis reported 79 suspensions and 1 expulsion for the year prior to SIG implementation. In its application, SFUSD reported that the time the Everett school principal should spend on instructional improvement was often spent dealing with discipline challenges or managing the campus. Truancy was a major concern, and according to the LEA's application, 182 of the 427 students were identified as truant (3 or more days of unexcused absence during the 2008-09 school year.) The LEA's application also reported that students at Everett Middle school have a high need for social and emotional supports as students were the subject of 42 Child Protective Services reports in 2008 – 09 school year and over 100

students seek out the services of the school's Learning Support professional, who provides mental health services to support academic success and social/emotional well being.

Furthermore, the needs analysis identified that the expectations for learners were not clearly defined on a consistent basis across the Everett Middle school campus. A significant proportion of the classrooms demonstrated low expectations and routines of instruction are not consistently implemented. The needs analysis indicated a general lack of rigor in instruction and there were wide variations in student engagement.

In interviews the teachers, school administrators and students reported that the school felt safer since SIG implementation. During interviews, teachers spoke about the order that now exists in the school, the administration's actions to curb the inappropriate language used by students, and its focus on changing the culture of the school.

San Bernardino City Unified School District

San Gorgonio High School's (San Gorgonio) needs assessment indicated that student behavior and student attendance needed to be improved and that there needed to be greater home school connections. The leadership team and teachers interviewed reported that, prior to the implementation of the transformation model, many students did not come to class, or were locked out of the portable classrooms that house much of the campus when they were late to class. San Gorgonio's principal and leadership team also reported that, before the 2010-2011 school year, most students and parents did not know who the principal was.

During interviews, the Leadership Team indicated that the new principal has set the goal and the vision for the school, which everyone knows and is expected to work towards achieving. The principal reported that he has met with all students and provided them information about their test scores in language they can understand, as well as shared with them the goal for the school. In every classroom observed, the school goal for state exams was posted, and students could recite the goal in unison. Teachers reported that, now, there is one goal for the school, and that goal drives what programs are implemented as well as what materials and other resources are purchased. The San Gorgonio principal, leadership, and teachers also reported that all staff are now expected to ensure that students are in class. The school has also hired additional security guards to make sure that students are in class.

When parents were asked about changes at the school, they generally reported feeling that the principal was available to speak to them at all times about any questions or concerns. San Gorgonio has implemented the Parent Portal system. Through this system, parents can view their student's information, demographics, student class schedule, student course requests (next term classes), attendance data, grades, class assignments, and unofficial transcripts. The school has also used SIG funds to hire Community Resource Workers who conduct home visits and focus on students who are failing or who are not in class.

Los Angeles Unified School District

Los Angeles Unified School District's (LAUSD) needs assessment narrative described Gompers Middle School (Gompers) as a failing school located in one of the most difficult neighborhoods in Los Angeles. The students are amongst the poorest in the city, with an overrepresentation of foster care children, students with special education needs, and a significant population of English Language Learners. Prior to the restart model being implemented, the school staff and parents all described the daily battles waged and lost against the neighborhood gang violence that was spilling into the school. The teachers and parents all described Gompers' facilities as being unclean and unsafe. In 2008, the Mayor's Partnership (the Partnership) became Gompers's Educational Management Organization (EMO), and one of the core areas that the EMO focused its school improvement efforts was in school culture. The Partnership provided professional development to help improve discipline and classroom management through the program *Capturing Kids Hearts*. The Partnership also used SIG funds to hire two social workers, two psychologists, and a crisis response team to improve campus safety.

In interviews with the teachers, they reported that the professional development they received through *Capturing Kids Hearts* improved their classroom management and reduced the number of discipline incidents in the classroom. Teachers stated that there was a reduction in the number of fights in the hallways and school lockdowns from previous years, in large part because of the crisis response team. Both school leadership and staff reported that the social workers and psychologists have helped provide much of the counseling and personalized attention that students needed, leaving teachers to focus more on instruction. Students acknowledged that they saw more teacher control of the classroom and that they felt safe coming to school. All the parents emphasized how much cleaner and safer the school was since the Partnership had taken over.

Staffing

San Francisco Unified School District

Changes in Leadership

The principal at Everett Middle School was a recent hire and was retained as part of the implementation of the SIG model. The four teachers interviewed indicated that the principal and the recently-hired assistant principals provided a vision for the school. However, while the principal was hired within the previous two years, he stated that he was not hired as part of a reform.

Changes in Staff

In interviews with LEA leadership and teachers reported that the SFUSD did not replace staff in schools implementing the turnaround model before the start of the 2010 – 2011 school year. According to these interviews, in January 2011, the school notified staff who would be returning for the 2011 – 2012 school. Neither the LEA nor the school developed or used locally adopted competencies to make these decisions those teachers who would not be returning are continuing to teach at Everett for the remainder of the school year before transferring to another school or

retiring. The other schools implementing the Turnaround model also did not replace the staff before the start of the 2010 – 2011 school year.

San Bernardino City Unified School District

Changes in Leadership

San Bernardino City School District (SBCSD) began the process of replacing the principal at San Gorgonio by examining extensive school and district level data and then determining which person was the best match for the school. SBCSD staff also considered candidates that had a proven track record for improving student achievement. During interviews, SBCSD staff indicated that the new principal for San Gorgonio came from a high-performing school in the LEA with similar demographics. San Gorgonio's new principal was able to work with both SBCSD and school staff to develop the transformation plan. SBCSD staff also explained that all of the principals hired for the LEA's SIG schools came from higher achieving schools within the LEA or from neighboring LEAs. Each principal of the eleven schools implementing SIG models has a record of effectiveness. Many of them had led school reform at similar schools in the LEA. In all hiring, SBCSD examined a wide-range of data and looked for the best match between the data and experiences of candidates when hiring a new principal.

Changes in Staff

The new principal at San Gorgonio was appointed in July 2010. San Gorgonio teachers were required to sign a letter of commitment. Teachers who elected not to sign the letter of commitment were involuntarily transferred. In addition, San Gorgonio's plan indicates that the school will implement a process beginning in August 2011 to identify and remove staff who have not improved professional practice after ample opportunities have been provided for them to do so.

SBCSD staff indicated that on May 15, 2010, principal assignments were made for its eleven Tier I and Tier II schools. Central level district staff met with the transformation and turnaround principals to ensure that their vision for implementing the designated model was clearly articulated and focused. SBCSD staff indicated that they have a good relationship with the labor union. They have already worked jointly on the compensation issues as well as the involuntary transfer issue.

Los Angeles Unified School District

Changes in Leadership

The Mayor's Partnership assumed management and control of Gompers in July 2008. When recruiting and screening the EMO, LAUSD looked at the business, personnel and financial qualifications of the EMO as well as its previous experience. Prior to being taken over by the Partnership, the school leadership and staff at Gompers indicated that the school had gone through several leadership changes, which contributed to a culture that lacked both accountability and high expectations for student behavior and achievement.

At the time the Partnership took control, the EMO hired the current principal. The school leadership team, teachers, and parents all praised the principal, noting her openness and willingness to listen and implement new ideas. Staff also spoke of how the Partnership cut through the bureaucracy of the LEA, making it easier for them to obtain the staff and supplies they had needed for years. However, responses to interview questions suggested that the Partnership had not provided an overall vision for reform. LAUSD officials indicated that the Partnership has faced a few difficulties that may have affected the cohesiveness of the organization's academic mission. They stated that the Partnership's Superintendent of Instruction, whose experience and leadership was one of the main reasons the LEA signed the original MOU with the EMO, had left recently along with some of the main instructional staff. The LEA also explained that within the Partnership's higher management, there are few with educational backgrounds or experience. In order to compensate for this, LAUSD staff explained that they have worked at the school level to provide Gompers instructional support and professional development.

Changes in Staff

In Gompers' needs analysis, LAUSD reported that prior to SIG implementation, key stakeholders lacked a sense of shared values and beliefs about student academic and behavioral expectations. Teachers were frequently late for class or absent; teacher attendance, prior to the Partnership assuming control, was 86%. In interviews, teachers reported that there had been a high turnover in the teaching staff. Therefore, much of Gompers' staff was new to the LEA. For example, during the 2008-2009 LAUSD budget crisis, school leadership stated that because of LAUSD's layoff policies, over 50% of its staff was laid off at the end of that school year. The school leadership indicated that the high numbers of layoffs adversely affected their ability to re-staff the school. New staff reported that in order to be hired at Gompers, they went through an initial resume screening, then were interviewed by a team comprised of Gompers' school leadership, Partnership staff, a union representative, and some current teaching staff. However, the school leadership team did not provide evidence of using any particular criteria to screen applicants. Both new and returning staff reported that they felt that the teaching culture has changed for the better as a result of the increased professional development and change in leadership. They felt that the work culture now promoted collaboration and professional growth. Parents reported that they felt the staff was easier to communicate with and that their students feel respected and cared for by the staff.

Teaching and Learning

San Francisco Unified School District

Everett Middle School's need assessment indicated that there was a general lack of rigor in instruction and wide variations in student engagement. Moreover, the analysis indicated that the curriculum was not rigorous across all academic areas, there was little coherence among grade levels about the content to be taught, and teachers rarely evaluated their practice in light of the curriculum. The analysis also highlighted that the lack of instructional leadership contributed to poor choices in the use of materials within the classroom. Further, while some teachers are

exceptionally motivated and work to improve their practice, they do so out of their own motivation and receive no support from the school community.

In interviews, the school leadership indicated that it was focusing its efforts on instruction. Everett Middle School staff indicated it had hired additional teachers to implement the Read 180 program and other instructional programs designed to address the needs of English Language Learners.

San Bernardino City Unified School District

SBCSD identified alignment of federal, state, and private resources as an area of need for all of its SIG schools. As one of the first actions, each new principal was to work with the newly-established Turnaround Office, school site councils, and district staff to align all budgets to support a unified vision of the school transformation or turnaround.

The San Gorgonio needs assessment indicated the following specific needs:

- More students need to pass Algebra I and other core classes in the ninth grade;
- Professional development needs to focus on engaging, student-centered instructional strategies, including checking for understanding and higher-level questioning;
- Student access to higher-level curriculum must be increased, especially for poor and minority children.
- More and targeted support with increased instructional minutes for students in need of support, and strategies for enrichment, and accelerated curriculum.
- A fully-aligned and articulated curriculum, featuring rigor and appropriate student support, particularly in English and math; and
- Active learning strategies.

San Gorgonio's staff stated during interviews that, prior to the implementation of the transformation model during the 2010-2011 school year, there was a great disparity among teachers in following the pacing guide. Teachers reported that the pace of instruction was generally regulated by the ability of individual groups of students to comprehend the material. San Gorgonio implemented a revised daily schedule in the 2008-2009 school year. This schedule allowed for two hours per week of professional development, collaboration, and instructional support. The leadership team reported that, prior to the 2010-2011 school year, this time seemed to be spent primarily on individual lesson planning, rather than on focused professional development, collaboration and instructional support activities.

In response to these needs, San Gorgonio's SIG application indicated the school would implement several key strategies. School staff indicated that the school has ensured that, during late-start Thursdays, opportunities for communication have been improved including staff

meetings for all staff, meetings between school and LEA staff, and structured department meetings. The school has now instituted professional learning communities (PLCs) which meet during the allotted time on Thursdays. The PLC's are grade-specific and content area-focused and are structured to enable teachers to collaborate through sharing curriculum, best practices, and standards-based instructional strategies. Each PLC also develops and implements a curriculum-aligned set of tests to measure and inform timely decisions including when to continue instruction and when to re-teach. All staff mentioned that the PLC process encourages them to be more data focused. During interviews, the leadership team described how the new structure for its PLCs allows teachers to meet by grade level to analyze student data and collaboratively develop standards based lessons. Teachers indicated that having structured PLCs has helped direct everyone towards a clear goal. Teachers noted that there is much more focus on finding strategies that work and, consequently, the conversations begun during the PLC time extend into lunch time and after school.

San Gorgonio staff also stated that implementation coaches work with teachers to align pacing guides with the curriculum, and ensure that an accurate reading assessment is conducted for every ninth and tenth grade student in order to ensure placement in targeted interventions.

San Gorgonio's SIG plan also indicates that additional teachers have been hired to provide reduced class size for reading and Algebra intervention classes and individualized support in the credit recovery/reengagement classes. A ninth grade academy has been created to ensure that all ninth graders have the study skills and habits, academic support, and social support necessary to be successful. San Gorgonio has also implemented a mandatory seventh period for all ninth graders. Additionally, the school eliminated ability tracks in order to provide opportunities for students to enroll in advanced coursework and added an optional seventh period for tenth, eleventh, and twelfth graders to provide them with interventions, enrichment, core, and study-skills electives options. San Gorgonio had also identified a credit recovery program that is provided to all credit-deficient eleventh and twelfth graders.

SBCSD's SIG application indicated it would create a Turnaround office to provide the conditions for school improvement, effectively build parent and community support, contract with external partners, monitor fidelity of plan implementation and progress, build leadership capacity, problem solve, and maintain communication and coordination. The Turnaround Office was to have a Turnaround Leader who had a record of effectiveness improving outcomes for schools and an ability to navigate the LEA system and ensure resources and support for schools. Rather than hiring staff for the Turnaround Office, the SBCUSD has utilized existing staff members who are already assigned various duties in the Title I office. These staff members reported that they have provided assistance to the SIG schools specific to monitoring the fidelity of plan implementation and progress, building leadership capacity, problem solving, and maintaining communication and coordination

Los Angeles Unified School District

According to its needs assessment, student achievement at Gompers has been stagnant; the school has been in program improvement for 10 years. In 2009, only 12% of students were proficient in Math and 14% were proficient in English/Language Arts (ELA). The needs

assessment also indicated that Gompers had challenges serving its special education and ELL students, with both groups achieving below 3% proficiency in ELA and Math. The Partnership staff reported that in their initial assessment of instructional practices, they believed there was a great variance in classroom environments, instructional planning and delivery, and student academic and behavioral expectations. Common planning time was not a regular practice and professional development was not job-embedded.

In response, the Partnership planned to use its SIG funds for various types of professional development. In its SIG plan, the EMO describes summer planning time, where Gompers was partnered with the University of California – Los Angeles (UCLA) to conduct a 2-week summer institute to improve instruction, culminating in a complete professional development plan for the year. The Partnership also planned to bring in six content coaches from UCLA to support teachers across all the core subject areas. School leadership also explained that they had instituted a balanced literacy approach for all ELA classes, and that much of the professional development at the school has revolved around it. Gompers leadership and staff explained that City Year tutors were placed in many of the classes to provide additional individualized attention to students and instructional support for teachers.

In interviews, teachers explained how the amount of professional development they received has increased. All the teachers explained how useful the UCLA instructional coaches have been in improving the quality of their instruction. They stated that the professional development the UCLA coaches provided is relevant to their job and specific to current lessons and identified student needs. ELA teachers interviewed expressed that the balanced literacy program and professional development surrounding that has been helpful in improving their literacy instruction. However, the teachers provided conflicting explanations about the content of their balanced literacy training. All teachers said how helpful the City Year tutors have been, because they provided the extra attention that students needed and helped with classroom management.

In classroom observations, students appeared engaged and all ELA classrooms visited were implementing aspects of balanced literacy. City Year tutors were present, providing one-on-one assistance to students as requested. Unlike the ELA teachers, math teachers stated that they had not been provided a similar program or any specific professional development for their subject outside of the UCLA coaches. When staff and school leadership were asked about the student impact of these changes in instruction, they stated that they saw improvements in student behavior and engagement. However, they could not articulate whether they had seen a difference in student achievement as measured by the periodic assessments or their own teacher created assessments.

Use of Data

San Francisco Unified School District

The needs analysis for Everett Middle School indicated that due to the lack of direction in terms of clear goals and objectives, lack of benchmark assessments and use of data for planning instruction, it has been difficult to plan appropriately targeted professional development based on clearly identified instructional needs.

In interviews, LEA and school staff indicated that teachers and administrators are meeting to analyze the data that are being accumulated by Partners in Innovation. The staff at Everett Middle reported that the school is now analyzing benchmark data to evaluate the progress of each student.

San Bernardino City Unified School District

San Gorgonio's needs assessment indicated that teachers had improved access to student data as a result of the schoolwide implementation of DataDirector. However, the use of student data varied greatly from department to department.

The school staff reported that the school has contracted with a company to introduce the Classroom Diagnostic Assessment System (CDAS) to each PLC. These data-driven assessments allow for each PLC to develop a standards–based and curriculum-aligned series of tests to measure and inform timely decisions regarding students' mastery of standards, including when to continue instruction and when to re-teach. Some teachers indicated that they believe that the flexibility of this assessment model allows for the kind of immediate response and attunement to student needs that is necessary in order to raise individual student achievement and understand the type and kind of individualized support necessary to deliver effective instruction. School staff stated that approximately 90 percent of staff in each department has begun to develop and implement the CDAS model. Those remaining PLCs which have not are following an iterative process of common assessment based on S.M.A.R.T. goals.

San Gorgonio staff reported during interviews that the school's staff is focused in terms of test data. A universal screening process is used with all ninth graders in order to ensure correct placement as well as to determine which students may need additional interventions.

SBCSD staff indicated that, as part of the needs assessment, the deputy superintendent hired eleven site managers to work at the SIG schools. These new site managers conducted cabinet meetings at the school sites, and public meetings with the community. Site managers also spoke with school staff. They looked at many different kinds of data, including data indicating achievement gaps, grades versus California Standardized Test (CST). The data also were used to determine who the best principal/leader for each school would be.

Los Angeles Unified School District

Gompers' needs analysis did not address the use of data at the school prior to receiving the SIG award. The school leadership indicated that the use of data to drive instructional decisions was not the norm amongst Gompers' staff prior to the Partnership assuming control. In Gompers' SIG proposal, the school was going to implement instructional rounds, where teachers would use focused observation and data analysis to drive instructional choices and student interventions. However, at the time of the visit, these instructional rounds had not been occurring on a regular basis. ELA teachers stated that they used their running records and number of informal reading assessments to judge where their students were, but could not convey how these multiple

measures were used to guide interventions used with students or change course with their instruction. In staff interviews, teachers of subjects other than ELA, stated that the UCLA instructional coaches occasionally provided them assistance with analyzing student achievement data. Yet, the school leadership and teachers did not indicate that they analyzed and used student achievement data for other subjects on a regular basis.

When asked how the LEA's periodic assessment was used, the teachers interviewed said they felt that the assessment did not correlate with what they were teaching in their classrooms. The teachers also indicated that they did not believe that the periodic assessment data collected was representative of their students' learning or academic growth. They also indicated that they could suggest to the principal professional development activities or strategies that they felt were "good ideas" and that, if funds were available, these activities and strategies were then provided. However, the teachers did not indicate that these activities were based on needs identified by the student achievement data.

Technical Assistance

San Francisco Unified School District

In interviews, SFUSD staff reported that it received technical assistance support from the California Department of Education (CDE). The support included webinars on the rules and regulations of the School Improvement Grant, the State's application process and timeline, and budget preparation.

San Bernardino City Unified School District

In interviews, SBCSD staff reported that they received a lot of feedback and technical assistance from the CDE which was very helpful in completing the LEA application. Staff also indicated that they have direct access to CDE staff and have found them very helpful in answering all questions. They also reported that the CDE had webinars, phone conferences and a SIG handbook as part of its technical assistance.

SBCSD conducts monthly SIG principal meetings at the LEA office to talk about SIG implementation and any issues those schools are facing. These meetings also provide an opportunity for principals to receive assistance and share ideas about making things work. SBCSD has provided training on PLC and technology. The school principal mentioned that he received a lot of support from central office staff.

SBCSD staff indicated that they are still working on the teacher evaluation component of the transformation model with the union. However, until that evaluation system is developed and operating, they are trying to understand whether the measures are valid and reliable as well as determining how to measure a student's achievement using standardized test scores.

Los Angeles Unified School District

In its SIG application LAUSD proposed that it would provide technical assistance in the following areas: teacher evaluation, providing performance incentives for teachers, and using local school site councils to provide professional development. For implementation of a teacher evaluation system, LAUSD created a SIG ad-hoc committee composed of LEA staff, union representatives, and staff from each of the SIG schools. The Ad-hoc committee is charged with learning about different teaching and leadership models and to create and pilot a teacher evaluation system in the SIG schools.

As of the date of the monitoring visit, the Ad-hoc committee met once to discuss an initial framework for the evaluation system and decided to contract with a company for professional development on teacher evaluation. LAUSD staff stated that they expect to have a full teacher evaluation system to implement in the SIG schools by next school year. However, LAUSD staff reported that othe planned technical assistance had not yet been implemented due to the fact that the LEA did not actually receive its SIG funds until December 2010, preventing them from staffing the Office of Turnaround Schools, the unit which was to carry out the technical assistance.

TECHNICAL ASSISTANCE RECOMMENDATIONS

Issue 1: SBCSD staff indicated that they are trying to understand how to determine whether the measures are valid and reliable as well as determining how to measure a student's achievement using standardized test scores.

Technical Assistance Strategies:

- Provide focused technical assistance to the LEA to assist it with developing multiple measurable standards of student achievement, as part of the teacher evaluation process.

Issue 2: SBCSD staff indicated that they need guidance from the CDE regarding when budget amendments are necessary as well as information on whether schools may: move funds within an object code; move funds from one object code to another; and when SEA and/or school board approval is needed.

Technical Assistance Strategies:

- Provide guidance to LEA program and fiscal staff on the processes for moving funds within an object code, moving funds from one object code to another, and when amendments are necessary. (CDE)

Issue 3: SBCSD staff indicated that they underestimated how much they would need in terms of Human Resources and how many new teachers they would need. The SBCSD's commission is not letting the LEA hire classified positions.

Technical Assistance Strategies:

- Provide information/technical assistance to commissions/boards regarding requirements of the SIG grant.

Issue 4: The CDE has not monitored schools implementing SIG.

Technical Assistance Strategies:

- Because the State legislature has not allowed CDE staff to travel, the Department recommends technical assistance for the SEA to develop off site monitoring techniques**.**

MONITORING FINDINGS

Summary of Monitoring Indicators

Critical Element	Requirement	Status	Page
1. Application Process	The SEA ensures that its application process was carried out consistent with the final requirements of the SIG program. [Sections I and II of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010)]	Finding	
2. Implementation	The SEA ensures that the SIG intervention models are being implemented consistent with the final requirements of the SIG program. [Sections I and II of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010))]	Finding	
3. Fiscal	The SEA ensures LEAs and schools are using funds consistent with the final requirements of the SIG program. [Section II of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010)) ; §1114 of the ESEA; and Office of Management and Budget (OMB) Circular A-87]	Finding	
4. Technical Assistance	The SEA ensures that technical assistance is provided to its LEAs consistent with the final requirements of the SIG program. [Section II of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010))]	Met Requirements	
5. Monitoring	The SEA ensures that monitoring of LEAs and schools is being conducted consistent with the final requirements of the SIG program. [Section II of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010))]	Finding	
6. Data Collection	The SEA ensures that data are being collected consistent with the final requirements of the SIG program. [Sections II and III of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010))]	Met Requirements	

Monitoring Area: School Improvement Grant

Critical Element 1: The SEA ensures that its application process was carried out consistent with the final requirements of the SIG program.

Finding (1): The SEA did not ensure that its application process was carried out consistent with its approved SIG application. The CDE conducted the application review and identified schools to be funded. The SEA directed the CDE to prepare a request for waiver not to carry over the required 25 percent of 2009 SIG funds and to impose a school size funding cap for each school. This allowed all approvable priority one and priority two LEAs to be funded, regardless of application score. The CDE then asked all LEAs with approvable applications to reduce their budgets, not to exceed the school size maximum allocation amount.

Citation: Sections II.B. of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010)), requires a State to submit to ED for approval an application that contains such information as the Secretary may reasonably require. The FY 2009 SIG application required States to describe their process for reviewing LEA applications.

Further action required: Prior to taking its FY 2010 slate to the California State Board of Education for approval, the CDE must provide to ED evidence that it administered its competition consistent with its approved FY 2010 SIG application. The evidence must include the number of reviews conducted and the specific criteria used to determine individual school budgets. (Also see Further Action Required for finding 2.)

Findings (2): The CDE did not ensure that award amounts were made consistent with the SIG requirements. In SFUSD, Mission High School was awarded $2,014,668.00 which exceeds the amount permitted by the final requirements.

Citation: Section II.B.5 of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010)), requires that an LEA's total grant may be not less than $50,000 or more than $2,000,000 per year for each Tier I, Tier II and Tier III school the LEA commits to serve.

Further action required: Prior to taking its FY 2010 slate to the California State Board of Education for approval, the CDE must provide to ED evidence that it administered its competition consistent with its approved FY 2010 SIG application. The evidence must include the number of reviews conduced and the specific criteria used to determine individual school budgets. (Also see Further Action Required for Finding 1.)

Critical Element 2: The SEA ensures that the SIG intervention models are being implemented consistent with the final requirements of the SIG program.

Finding (1): The CDE did not ensure that schools implementing the turnaround model rehire no more than 50 percent of the staff. SFUSD did not replace staff in schools implementing the turnaround model before the start of the 2010 – 2011 school year as required.

Citation: Section I.A.2(a)(ii)(A) of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010)) requires that an LEA implementing the turnaround model, using locally developed competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students, screen and rehire no more than 50 percent of the staff.

Further action required: The CDE must submit to ED evidence that it has reviewed the progress of all schools that received FY 2009 SIG funds to implement the turnaround model to ensure that these schools have, using locally developed competencies to measure the effectiveness of staff who can work in the turnaround environment, screened all existing staff and rehired no more than 50 percent as required. The CDE also must submit to ED the results of that review and the steps it will take to ensure that all schools that received FY 2009 SIG funds to implement the turnaround model that have not already screened and rehired no more than 50 percent of the staff using locally develop competencies, have done so by the beginning of the 2011-2012 school year. (Also see finding for Critical Element 5.)

Finding (2): The CDE did not ensure that SFUSD replaced the principal in a school implementing the turnaround model consistent with the SIG final requirements. The SFUSD hired the principal at Everett Middle School within the two year period during which the regulations permit an LEA to continue a previously implemented intervention. However, although the principal was hired within the previous two years, the principal was not hired as part of a broader reform effort.

Citation: Section I.B.1 of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010))], states an SEA may award school improvement funds to an LEA for a Tier I or Tier II school that has implemented in whole or in part, an intervention that meets the requirements under section I.A.2(a), 2(b) or 2(d) of these requirements within the last two years so that the LEA and school can continue or complete the intervention being implemented in that school.

Further action required: The CDE must submit to ED evidence that it has reviewed the progress of all schools that received FY 2009 SIG funds to implement the transformation and turnaround model to ensure that any principal hired within the last two years who was retained, was retained consistent with the SIG requirement. The CDE also must submit to ED the results of that review and the steps the CDE will take to ensure these schools are either in compliance with the SIG requirements or indicate how it will take this into account in determining whether to continue the grant for the 2011-2012 school year. (Also see finding for Critical Element 5.)

Finding (3): The CDE did not ensure that SFUSD implemented extended time in Everett Middle School, as required for the turnaround model. SFUSD believed that Everett Middle School extended the school day by an hour six years ago and due to this reason was not required to implement any additional time.

Citation: Section I.A.2(a)(viii) of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010)), requires an LEA implementing the Turnaround model to establish schedules and implement strategies that provide increased learning time (as defined in the final requirements.)

Further action required: The CDE must submit evidence to ED that it has reviewed each LEA that received FY 2009 SIG funds to implement the transformation model to determine if extended learning time is actually being provided consistent with the SIG final requirements. Additionally, the CDE must submit to ED a timeline for implementation of extended learning for any school it determines is not currently doing so.

Critical Element 3: The SEA ensures LEAs and schools are using funds consistent with the final requirements of the SIG program.

Finding: Everett Middle School, in SFUSD, plans to use the SIG funds to support a summer bridge program that will enroll 20 students. Students participating in the program will come from both Everett Middle School and Horace Mann Middle school, another SIG school located within the LEA. Student participation in the summer bridge program is limited to a small number of students and it is not clear how the program will contribute to turning around either school.

Citation: Section I of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 (October 28, 2010)) requires that schools implement rigorous interventions designed to support significant reforms to improve educational outcomes in our nation's lowest-performing schools. Office of Management and Budget Circular A-87, which governs the use of Federal funds (including SIG), requires that the use of funds for a specific purpose be necessary and reasonable for the proper and efficient performance and administration of the program and be authorized and not prohibited under State and local laws or regulations.

Further action required: The CDE must notify SFUSD that it must submit an amendment to its approved SIG application if it wants to use SIG funds to implement a summer bridge program. The amendment must include the criteria that SFUSD will use to determine which students may participate and a rationale for how the program supports the overall goal of turning around both Everett Middle School and Horace Mann Middle Schools. The CDE must review the amendment to determine if the proposed expenditure is consistent with the overall goals of SIG and whether it is reasonable and necessary to carry out SIG implementation in both schools.

Critical Element 5: The SEA ensures that monitoring of LEAs and schools is being conducted consistent with the final requirements of the SIG program.

Finding: The CDE is not monitoring SIG implementation as outlined in its approved application.

Citation: Section 80.40 of the Education Department General Administrative Regulations (EDGAR) states that grantees must monitor grant and subgrant activities to ensure compliance with applicable Federal requirements. Section 9304(a) of the ESEA requires that the SEA must ensure that (1) programs authorized under the ESEA are administered in accordance with all applicable statutes, regulations, program plans, and applications; and (2) the State will use fiscal control and funds accounting procedures that will ensure the proper disbursement of and accounting for Federal funds.

Further action required: The CDE must submit to ED a timeline and monitoring protocol for onsite and offsite monitoring for FY 2009 and FY 2010 SIG recipients. The CDE must also submit to ED evidence that the timeline is being implemented.

ITEM ADDENDUM

DATE: July 7, 2011

TO: MEMBERS, State Board of Education

FROM: TOM TORLAKSON, State Superintendent of Public Instruction

SUBJECT: Item 2 – Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs.

Summary of Key Issues

Attachment 3 provides California's response to the Targeted Monitoring Review of School Improvement Grants (SIG).

Attachment(s)

Attachment 3: California's (CA's) Draft Response to the Targeted Monitoring Review of School Improvement Grants (SIG) under section 1003(g) of the Elementary and Secondary Education Act of 1965, March 7–11, 2011 (36 Pages total) (Pages 1–6)

Part I: California Monitoring Plan for School Improvement Grant Sub-Grantees (Pages 7–9)

Part II: SIG Phone Call Protocol (Pages 10–15)

Part III: The Cohort 1 Local Educational Agencies and Schools Recommended for Year 2 Renewal of School Improvement Grant Funding (Pages 16–36)

California's (CA's) Draft Response to the Targeted Monitoring Review of School Improvement Grants (SIG) under section 1003(g) of the Elementary and Secondary Education Act of 1965
March 7–11, 2011

Monitoring Area: School Improvement Grant

Critical Element 1: The SEA ensures that its application process was carried out consistent with the final requirements of the SIG program.

Finding (1): The SEA did not ensure that its application process was carried out consistent with its approved SIG application. The CDE conducted the application review and identified schools to be funded. The SEA directed the CDE to prepare a request for waiver not to carry over the required 25 percent of 2009 SIG funds and to impose a school size funding cap for each school. This allowed all approvable priority one and priority two LEAs to be funded, regardless of application score. The CDE then asked all LEAs with approvable applications to reduce their budgets, not to exceed the school size maximum allocation amount.

Further action required: Prior to taking its FY 2010 slate to the California State Board of Education (SBE) for approval, the CDE must provide to ED evidence that it administered its competition consistent with its approved FY 2010 SIG application. The evidence must include the number of reviews conducted and the specific criteria used to determine individual school budgets. (Also see Further Action Required for finding 2.)

Status: In progress

Documentation: Sections II.B. of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 [October 28, 2010]), requires a State to submit to ED for approval an application that contains such information as the Secretary may reasonably require. The FY 2009 SIG application required States to describe their process for reviewing LEA applications.

CA July 2011 Response: California is requesting a waiver to carryover 100 percent of the 2010 SIG allocation to be used in combination with the FY 2011 SIG allocation to conduct a competition Fall 2010. Schools awarded SIG will begin pre-implementation spring 2012, and full implementation will begin SY 2012–13. CDE will provide ED a summary of the competition review process prior to taking recommendation approval to the SBE.

Finding (2): The CDE did not ensure that award amounts were made consistent with the SIG requirements. In SFUSD, Mission High School was awarded $2,014,668.00, which exceeds the amount permitted by the final requirements.

Further action required: Prior to taking its FY 2010 slate to the California State Board of Education for approval, the CDE must provide to ED evidence that it administered its

competition consistent with its approved FY 2010 SIG application. The evidence must include the number of reviews conducted and the specific criteria used to determine individual school budgets. (Also see Further Action Required for Finding 1.)

Status: In progress

Documentation: Section II.B.5 of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 [October 28, 2010]), requires that an LEA's total grant may be not less than $50,000 or more than $2,000,000 per year for each Tier I, Tier II and Tier III school the LEA commits to serve.

CA July 2011 Response: California is requesting a waiver to carryover 100 percent of the 2010 SIG allocation to be used in combination with the FY 2011 SIG allocation to conduct a competition Fall 2010. Schools awarded SIG will begin pre-implementation spring 2012, and full implementation will begin SY 2012–13. CDE will provide ED a summary of the competition review process prior to taking recommendation approval to the SBE.

The grant award for SFUSD, Mission High School has been adjusted to $2 million per year. The amended grant award letter has been mailed to the district for signature and the corrected award amount has been posted on the CDE Web page at http://www.cde.ca.gov/sp/sw/t1/documents/sig09result.xls.

Critical Element 2: The SEA ensures that the SIG intervention models are being implemented consistent with the final requirements of the SIG program.

Finding (1): The CDE did not ensure that schools implementing the turnaround model rehire no more than 50 percent of the staff. SFUSD did not replace staff in schools implementing the turnaround model before the start of the 2010–2011 school year as required.

Further action required: The CDE must submit to ED evidence that it has reviewed the progress of all schools that received FY 2009 SIG funds to implement the turnaround model to ensure that these schools have, using locally developed competencies to measure the effectiveness of staff who can work in the turnaround environment, screened all existing staff and rehired no more than 50 percent as required. The CDE also must submit to ED the results of that review and the steps it will take to ensure that all schools that received FY 2009 SIG funds to implement the turnaround model that have not already screened and rehired no more than 50 percent of the staff using locally develop competencies, have done so by the beginning of the 2011-2012 school year. (Also see finding for Critical Element 5.)

Status: In progress

Documentation: Section I.A.2(a)(ii)(A) of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and

Secondary Education Act of 1965, as amended (75 FR 66363 [October 28, 2010]) requires that an LEA implementing the turnaround model, using locally developed competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students, screen and rehire no more than 50 percent of the staff.

CA July 2011 Response: California's monitoring process for SIG sub-grantees includes fiscal monitoring and programmatic monitoring. (See Part I). As part of the Cohort 1 (FY 2009) year one monitoring process, and to inform the decision for renewal of year two funding, CDE staff has conducted conference calls with each of the 41 LEAs funded using the SIG Phone Call Protocol. (See Part II.) Each call averaged 90–120 minutes initially with some follow-up calls. Provided is a summary of Cohort 1 LEAs including identified areas of concern. (See Part III.) Any LEA that had not fully implemented a required component of the SIG will be required to complete and submit to CDE a "corrective plan" addressing specific areas that have not been fully implemented, timeline for full implementation, and evidence of full implementation. CDE staff will continue to provide ongoing monitoring and technical support to all SIG-funded LEAs.

As a result of a follow-up conference call with ED where additional clarification was provided about the increased learning time requirement for the Turnaround and Transformation models, a secondary rigorous review was completed. CDE staff reviewed applications submitted by all 41 Cohort I LEAs. A thorough review of the implementation charts and budget documents was completed to ensure that activities fully address and increase the three areas discussed in the guidance: core, enrichment, and teacher collaboration, and are available to all students. Areas of concern that were identified, such as lack of clarity, inappropriate activities, and budget concerns, were documented on a summary sheet for each LEA/school, and follow-up calls are being conducted with those districts to develop a corrective plan or revision to the application as appropriate.

Finding (2): The CDE did not ensure that SFUSD replaced the principal in a school implementing the turnaround model consistent with the SIG final requirements. The SFUSD hired the principal at Everett Middle School within the two-year period during which the regulations permit an LEA to continue a previously implemented intervention. However, although the principal was hired within the previous two years, the principal was not hired as part of a broader reform effort.

Further action required: The CDE must submit to ED evidence that it has reviewed the progress of all schools that received FY 2009 SIG funds to implement the transformation and turnaround model to ensure that any principal hired within the last two years who was retained, was retained consistent with the SIG requirement. The CDE also must submit to ED the results of that review and the steps the CDE will take to ensure these schools are either in compliance with the SIG requirements or indicate how it will take this into account in determining whether to continue the grant for the 2011-2012 school year. (Also see finding for Critical Element 5.)

Status: In progress

Documentation: Section I.B.1 of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 [October 28, 2010]), states an SEA may award school improvement funds to an LEA for a Tier I or Tier II school that has implemented in whole or in part, an intervention that meets the requirements under section I.A.2(a), 2(b) or 2(d) of these requirements within the last two years so that the LEA and school can continue or complete the intervention being implemented in that school.

CA July 2011 Response: California's monitoring process for SIG sub-grantees includes fiscal monitoring and programmatic monitoring. (See Part I.) As part of the Cohort 1 (FY 2009) year one monitoring process, and to inform the decision for renewal of year two funding, CDE staff has conducted conference calls with each of the 41 LEAs funded using the SIG Phone Call Protocol. (See Part II.) Each call averaged 90–120 minutes initially with some follow-up calls. Provided is a summary of Cohort 1 LEAs including identified areas of concern. (See Part III.) Any LEA that had not fully implemented a required component of the SIG will be required to complete and submit to CDE a "corrective plan" addressing specific areas that have not been fully implemented, timeline for full implementation, and evidence of full implementation. CDE staff will continue to provide ongoing monitoring and technical support to all SIG-funded LEAs.

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Finding (3): The CDE did not ensure that SFUSD implemented extended time in Everett Middle School, as required for the turnaround model. SFUSD believed that Everett Middle School extended the school day by an hour six years ago and due to this reason was not required to implement any additional time.

Further action required: The CDE must submit evidence to ED that it has reviewed each LEA that received FY 2009 SIG funds to implement the transformation model to determine if extended learning time is actually being provided consistent with the SIG final requirements. Additionally, the CDE must submit to ED a timeline for implementation of extended learning for any school it determines is not currently doing so.

Status: In progress

Documentation: Section I.A.2(a)(viii) of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 [October 28, 2010]), requires an LEA implementing the Turnaround model to establish schedules and implement strategies that provide increased learning time (as defined in the final requirements.)

CA July 2011 Response: California's monitoring process for SIG sub-grantees includes fiscal monitoring and programmatic monitoring. (See Part I.) As part of the Cohort 1 (FY 2009) year one monitoring process, and to inform the decision for renewal of year two funding, CDE staff has conducted conference calls with each of the 41 LEAs funded using the SIG Phone Call Protocol. (See Part II.) Each call averaged 90–120 minutes initially with some follow-up calls. Provided is a summary of Cohort 1 LEAs including identified areas of concern. (See Part III.) Any LEA that had not fully implemented a required component of the SIG will be required to complete and submit to CDE a "corrective plan" addressing specific areas that have not been fully implemented, timeline for full implementation, and evidence of full implementation. CDE staff will continue to provide ongoing monitoring and technical support to all SIG-funded LEAs.

As a result of a follow-up conference call with ED where additional clarification was provided about the increased learning time requirement for the Turnaround and Transformation models, a secondary rigorous review was completed. CDE staff reviewed applications submitted by all 41 Cohort I LEAs. A thorough review of the implementation charts and budget documents was completed to ensure that activities fully address and increase the three areas discussed in the guidance: core, enrichment, and teacher collaboration, and are available to all students. Areas of concern that were identified, such as lack of clarity, inappropriate activities, and budget concerns, were documented on a summary sheet for each LEA/school, and follow-up calls are being conducted with those districts to develop a corrective plan or revision to the application as appropriate.

Critical Element 3: The SEA ensures LEAs and schools are using funds consistent with the final requirements of the SIG program.

Finding: Everett Middle School, in SFUSD, plans to use the SIG funds to support a summer bridge program that will enroll 20 students. Students participating in the program will come from both Everett Middle School and Horace Mann Middle school, another SIG school located within the LEA. Student participation in the summer bridge program is limited to a small number of students and it is not clear how the program will contribute to turning around either school.

Further action required: The CDE must notify SFUSD that it must submit an amendment to its approved SIG application if it wants to use SIG funds to implement a summer bridge program. The amendment must include the criteria that SFUSD will use

to determine which students may participate and a rationale for how the program supports the overall goal of turning around both Everett Middle School and Horace Mann Middle Schools. The CDE must review the amendment to determine if the proposed expenditure is consistent with the overall goals of SIG and whether it is reasonable and necessary to carry out SIG implementation in both schools.

Status: In progress

Documentation: Section I of the final requirements for the School Improvement Grants authorized under section 1003(g) of Title I of the Elementary and Secondary Education Act of 1965, as amended (75 FR 66363 [October 28, 2010]) requires that schools implement rigorous interventions designed to support significant reforms to improve educational outcomes in our nation's lowest-performing schools. Office of Management and Budget Circular A-87, which governs the use of Federal funds (including SIG), requires that the use of funds for a specific purpose be necessary and reasonable for the proper and efficient performance and administration of the program and be authorized and not prohibited under State and local laws or regulations.

CA July 2011 Response: The CDE is working with SFUSD to develop a corrective plan and revision to its application. Once completed and approved by CDE, a copy of the revised application will be posted on the CDE Webpage.

Critical Element 5: The SEA ensures that monitoring of LEAs and schools is being conducted consistent with the final requirements of the SIG program.

Finding: The CDE is not monitoring SIG implementation as outlined in its approved application.

Further action required: The CDE must submit to ED a timeline and monitoring protocol for onsite and offsite monitoring for FY 2009 and FY 2010 SIG recipients. The CDE must also submit to ED evidence that the timeline is being implemented.

Status: Resolved

Documentation: Section 80.40 of the Education Department General Administrative Regulations (EDGAR) states that grantees must monitor grant and subgrant activities to ensure compliance with applicable Federal requirements. Section 9304(a) of the ESEA requires that the SEA must ensure that (1) programs authorized under the ESEA are administered in accordance with all applicable statutes, regulations, program plans, and applications; and (2) the State will use fiscal control and funds accounting procedures that will ensure the proper disbursement of and accounting for Federal funds.

CA July 2011 Response: California's monitoring process for SIG sub-grantees includes fiscal monitoring and programmatic monitoring. (See Part I.)

California Monitoring Plan for School Improvement Grant Sub-Grantees

Background

The School Improvement Grant (SIG), authorized under Section 1003(g) of Title I, Part A, of the Elementary and Secondary Education Act (ESEA), provides funding, through state educational agencies (SEAs), to local educational agencies (LEAs) and independent charter schools that received Title I funds and have at least one school identified in Tier I, II, or III. These funds are for schools identified as “persistently lowest-achieving” that demonstrate the greatest need and the strongest commitment to use the funds. These sub-grants are intended to provide adequate resources to implement one of four specific options in order to raise substantially the achievement of students and enable the schools to make adequate yearly progress and exit improvement status.

As with any Federal education program administered through a state, the California Department of Education (CDE) and the State Board of Education are responsible for ensuring that SIG funds are awarded to LEAs and are used by LEAs in accordance with the statutory requirements and the SIG final requirements. This requires the CDE to ensure that SIG funds awarded to an LEA are used to implement one of the four school intervention models in each Tier I and Tier II school the LEA commits to serve and to carry out school improvement activities in the Tier III schools the LEA commits to serve. Fulfilling this responsibility includes designing an LEA application, carrying out the application review process, and monitoring implementation.

The CDE is also required to ensure that LEAs use SIG funds to supplement, not supplant, existing services and that funds are not used to supplant federal, state, local, or nonfederal funds. An LEA that commits to serve one or more Tier I, Tier II, or Tier III schools that do not receive Title I, Part A funds must ensure that each of those schools receives all of the state and local funds it would have received in the absence of the SIG funds.

Fiscal Monitoring

SIG sub-grantees must submit quarterly expenditure reports (Part I) to the CDE by the following dates: October 31, January 31, April 30, and July 31 for the duration of their sub-grant award. The LEA or chartering authority is responsible for ensuring that reports are accurate, complete, and submitted on time. The expenditure report form must be downloaded from the CDE’s SIG Web page and submitted through the California Accountability and Improvement System (CAIS). Expenditure reports will be reviewed to ensure that each school is expending at least 75 percent of the SIG funds that have been disbursed to it thus far. Future disbursements for individual schools will be based on this criteria.

Programmatic Monitoring

IMPLEMENTATION PROGRESS MONITORING

Online Monitoring of Implementation Chart (Form 10)

The Implementation Charts provided by the LEA as part of their application contain activities and timeline information that will be entered into the CAIS in the form of School Plans, also referred to as the Single Plan for Student Achievement (SPSA), by CDE staff. The CAIS system uses a tiered structure to organize the SPSA based on goals, strategies, actions steps, and tasks. Once the plan is entered, CDE staff will contact LEAs to ensure that the information entered into the CAIS correctly reflects what the LEA provided in the school's Implementation Chart. LEA personnel will be required to provide updates on the status of each school's intervention activities. The CAIS will also provide useful project management and documentation tools for LEAs implementing the SIG.

Conference Calls

CDE staff will conduct phone conferences with LEA personnel using a phone call protocol developed specifically for SIG (Part II). The CDE will schedule a 60–90 minute conference call between Regional Coordination and Support Office staff and LEA and school staff on a bi-annual basis to verify that required school intervention model components are being implemented. LEAs will be asked to complete a questionnaire regarding LEA implementation of the SIG prior to the call.

COMPLIANCE MONITORING

Desk Review and On-Site Visits

CDE staff will conduct a minimum of one site visit, over the three year grant period, to SIG-funded LEAs and schools in order to verify the information provided through the desk review process. A monitoring tool (Part III) has been developed to conduct these visits. The monitoring tool will be included in CAIS. LEAs will be required to upload evidence of compliance with grant requirements. Documents that have been uploaded in the CAIS will be reviewed by CDE staff prior to the on-site visit. The monitoring visit will include interviews with LEA staff, school staff, students (for grades 6–12), and parents. In addition, LEA and school plans and financial documents will be reviewed by CDE staff to ensure proper management of SIG funds.

DATA COLLECTION

The following reporting metrics are new for the SIG program and must be annually reported by schools in each SEA receiving a SIG grant:

(1) Which intervention the school used (i.e., turnaround, restart, school closure, or transformation);

(2) Number of minutes within the school year;

(3) Average scale scores on State assessments in reading/language arts and mathematics, by grade, for the all student groups, for each achievement quartile, and for each subgroup;

(4) Number and percentage of students completing advanced coursework (e.g., AP/IB), early-college high schools, or dual enrollment classes; and

(5) Teacher attendance rate.

The CDE will request both initial baseline data as well as require LEAs to submit subsequent yearly data through the OPUS – CBEDS system for SIG sub grantees.

MONITORING OF PROGRESS TOWARD ANNUAL SCHOOL GOALS

The LEA must monitor each Tier I and Tier II school that receives SIG funds to determine whether the school:

(1) Is meeting annual goals established by the LEA for student achievement on the State's ESEA assessments in both reading/language arts and mathematics; and

(2) Is making progress on the leading indicators described in the final requirements.

The CDE will review annually the LEA's progress on its annual school goals for student achievement for each of its Tier I and Tier II schools. This data will be used in part to determine whether to renew an LEA's SIG grant with respect to one or more Tier I or Tier II schools within the LEA that are not meeting those goals and making progress on the leading indicators.

SIG Phone Call Protocol

District Name: _____

Staff Interviewed: _____

General

1. How is the LEA ensuring that each SIG school:

    - Is fully implementing the selected intervention model in the school year?

    - Is meeting the requirements of the school's intervention model?

2. How is the LEA ensuring the SIG funds are being spent as described in your application? Do you anticipate having any carryover funds?

3. How is the LEA ensuring that district-level activities conducted with SIG funds are specifically supporting SIG schools?

4. Has the LEA made any structural changes to support the implementation of the SIG intervention model?

5. How is the LEA ensuring that a school being served with SIG funds is still receiving all the funds that it would have received without the SIG award?

SIG Phone Call Protocol

6. Has the LEA made any contractual changes or agreements with the labor union to ensure full and effective implementation of the intervention models (if applicable)?

7. With regards to technical assistance, how has the LEA supported, how does it currently support, and how does it plan to support schools in implementing the SIG program?

8. Describe generally the LEA's process for collecting data on the leading indicators below. A discussion of each individual item is not required.

    - Number of minutes within the school year;
    - Student participation rate on State assessments in reading/language arts and in mathematics, by student subgroup;
    - Dropout rate;
    - Student attendance rate;
    - Number and percentage of students completing advanced coursework
    - Discipline incidents;
    - Truants;
    - Distribution of teachers by performance level on an LEA's teacher evaluation system; and
    - Teacher attendance rate.

9. Has the LEA noticed any significant trends in the leading indicators that are informing its decision-making and reform efforts?

10. Is the LEA collecting any additional data beyond that required by the CDE and the SIG program?

SIG Phone Call Protocol

Transformation Model Specific Questions

1. How long has the principal been at this school? Was a retained principal part of a previous reform effort?

School	Principal	Date

2. How is the staff evaluated? How was that system developed?

3. What systems of rewards are in place for staff that are having a positive impact on student achievement and graduation rates? How does the school support teachers who may be struggling?

4. What types of strategies have been implemented to recruit, place, and retain staff who have the skills necessary to meet the needs of the students in the transformation school (e.g., financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions)?

5. What types of professional development or professional support systems have been provided to support the implementation of school reform strategies (e.g., implementing new instructional programs, analyzing data, or teaching LEP students)?

SIG Phone Call Protocol

6. What instructional programs or strategies are being used? Which of these are new?

7. How has data been used to drive decisions?

8. What types of operational flexibility (e.g., staffing, calendars/time, and budgeting) has the school been given? What policies were implemented to support the school?

9. Describe in which ways learning time (e.g., longer school year, longer school day, before or after school, summer school, weekend school) has increased and indicate whether the increase is in: (1) core academic subjects; (2) other subjects and enrichment activities; or (3) teacher collaboration and professional development. Please note: learning time must increase in all three areas listed above.

10. What efforts have been made this year to engage families and the community in the school? How is that different from last year?

SIG Phone Call Protocol

Turnaround Model Specific Questions

1. How long has the principal been at this school? Was a retained principal part of a previous reform effort?

School	Principal	Date

2. What new authority has been given to the principal with regards to the implementation of your school reform effort (e.g., staffing, calendars, scheduling, budgeting)?

3. What locally adopted competencies were used to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students for the purpose of: (1) screening all existing staff and rehiring no more than 50 percent; and (2) selecting new staff?

4. What types of strategies have been implemented to recruit, place, and retain staff who have the skills necessary to meet the needs of the students in the turnaround school (e.g., financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions)?

5. What types of professional development or professional support systems have been provided to support the implementation of school reform strategies (e.g., implementing new instructional programs, analyzing data, or teaching LEP students)?

SIG Phone Call Protocol

6. What type of new governance structure has been adopted? This may include, but is not limited to, requiring the school to report to a new turnaround office in the LEA, hiring a turnaround leader who reports directly to the Superintendent or Chief Academic Officer, or the school entering into a multi-year contract with the LEA to obtain added flexibility in exchange for greater accountability.

7. What instructional programs or strategies are being used? Which of these are new?

8. How has data been used to drive decisions?

9. Describe in which ways learning time (e.g., longer school year, longer school day, before or after school, summer school, weekend school) has increased and indicate whether the increase is in: (1) core academic subjects; (2) other subjects and enrichment activities; or (3) teacher collaboration and professional development. Please note: learning time must increase in all three areas listed above.

10. What types of social-emotional and community-oriented services and supports are being provided for students?

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
11		**ABC Unified**							$98,665.00		
		Pharis F. Fedde Middle	II	Transformation	Yes	NA	No	It is not clear that core instructional time increased from the previous year by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,119,059.00		X
									$1,217,724.00		
8		**Adelante Charter**							$0.00		
	Yes	Adelante Charter	I	Transformation	Yes	NA	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$298,824.00		X
									$298,824.00		
10		**Alvord Unified**							$0.00		
		Norte Vista High	II	Turnaround	Yes	Yes	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,894,722.24	X	X
									$1,894,722.24		
11		**Antelope Valley Union High**							$91,259.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Eastside High	II	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,669,000.00		X
		Littlerock High	II	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,722,900.00	X	X
									$3,483,159.00		
5		**Aromas/San Juan Unified**							$147,066.00		
		San Juan	I	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,410,233.00		X
									$1,557,299.00		
8		**Buttonwillow Union Elementary**							$0.00		
		Buttonwillow Elementary	I	Transformation	Yes	NA	No	It is not clear that instructional time in enrichment increased from the previous year for all students by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$432,943.00		X
									$432,943.00		

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
5		**Chualar Union Elementary**							$88,673.00		
		Chualar Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core. Increased enrichment time did not commence until 10/01/2011.	$205,508.00	X	X
									$294,181.00		
10		**Coachella Valley Unified**							$451,819.00		
		West Shores High	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core or enrichment for all students by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are either not available to all students or are not directly related to ILT.	$1,214,848.00	X	X
									$1,666,667.00		
9		**Escondido Union Elementary**							$71,223.00		
		Felicita Elementary	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,604,119.00	X	X
									$1,675,342.00		
10		**Fontana Unified**							$0.00		
		Fontana A. B. Miller High	II	Transformation	Yes	NA	No	It is not clear that core instructional time increased from the previous year by the beginning of 2010-11 SY. It is not clear how some activities in the Implementation Chart relate to ILT.	$2,000,000.00	X	X

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The Cohort 1 Local Educational Agencies and Schools
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Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
									$2,000,000.00		
7		**Fresno Unified**							$395,893.00		
		Carver Academy	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$856,794.00	X	X
		Webster Elementary	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,557,691.00	X	X
		Yosemite Middle	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased for enrichment or teacher collaboration by the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,733,715.00		X
									$4,544,093.00		
5		**Greenfield Union Elementary**							$368,928.00		
		Greenfield Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$476,525.00	X	X

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Vista Verde Middle	I	Transformation	Yes	NA	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$494,998.00	X	X
									$1,340,451.00		
4		**Hayward Unified**							$390,224.00		
		Burbank Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,587,115.00		X
		Longwood Elementary	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,626,978.00		X
		Tennyson High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,795,293.00		X
									$5,399,610.00		
9		**King-Chavez Arts Academy**							$465,262.50		

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
	Yes	King-Chavez Arts Academy	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$873,437.50	X	X
									$1,338,700.00		
4		**La Honda-Pescadero Unified**							$110,608.00		
		Pescadero Elementary and Mid	I	Transformation	Yes	NA	No	The LEA needs to clarify the students served and areas addressed for the summer, early morning, and Saturday programs. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$674,340.00	X	X
									$784,948.00		
7		**Lakeside Union Elementary**							$73,582.00		
		Lakeside Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$934,140.00		X
									$1,007,722.00		
7		**Lindsay Unified**							$43,901.00		

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Jefferson Elementary	I	Turnaround	Yes	NA	No	It is not clear that instructional time increased in enrichment for all students by the beginning of 2010-11 SY.	$878,015.00	X	X
									$921,916.00		
11		**Los Angeles Unified**							$895,629.00		
		Edwin Markham Middle	I	Restart	NA	NA	NA		$1,822,117.00		
		Florence Griffith Joyner Elementary	I	Restart	NA	NA	NA	Student incentives are not an allowable expenditure.	$1,849,952.00	X	
		Gardena Senior High	I	Transformation	Yes	NA	No	It is not clear that instructional time in core increased from the previous year for all students by the beginning of 2010-11 SY. It is also not evident that teacher collaboration increased from the previous year. Some activities do not qualify as ILT due to lack of evidence in addressing core, enrichment, teacher collaboration as well as including all students.	$1,636,960.00	X	X
		George Washington Carver Middle	I	Restart	NA	NA	NA		$1,855,687.00		
		Hillcrest Drive Elementary	I	Transformation	Yes	NA	No	Some activities do not qualify as ILT due to lack of evidence in addressing core, enrichment, teacher collaboration as well as including all students.	$1,855,212.00		X
		Maywood Academy High	II	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment for all students by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are either not available to all students or are not directly related to ILT.	$1,892,854.00		X
		Robert Louis Stevenson Middle	I	Restart	NA	NA	NA	Student incentives are not an allowable expenditure.	$1,855,358.00	X	
		Samuel Gompers Middle	I	Restart	NA	NA	NA	Student incentives are not an allowable expenditure.	$1,855,056.00	X	

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Thomas Jefferson Senior High	I	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment for all students. Activities identified in the Implementation Charts are either not available to all students or are not directly related to ILT.	$1,855,782.00	X	X
									$17,374,607.00		
3		**Marysville Joint Unified**							$90,433.00		
		Ella Elementary	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased in enrichment for all students by the beginning of 2010-11 SY. Some activites listed as ILT in the Implementation Chart are not a form of ILT.	$1,806,549.00	X	X
									$1,896,982.00		
8		**McFarland Unified**							$129,600.00		
		McFarland High	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some activites listed as ILT in the Implementation Chart are not a form of ILT.	$997,851.83		X
									$1,127,451.83		
5		**Monterey Peninsula Unified**							$1,472,291.00		

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Highland Elementary	I	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core instruction for all students at the beginning of the 2010-11 SY. It is not clear that an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Activities listed as ILT in the implementation chart are not a form of ILT.	$1,126,483.00		X
		Martin Luther King	I	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core instruction for all students at the beginning of the 2010-11 SY. It is not clear that an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,126,483.00		X
		Seaside High	II	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Activites listed as ILT in the Implementation Chart are not a form of ILT.	$1,608,078.00		X
									$5,333,335.00		
10		**Moreno Valley Unified**							$9,431.00		
		March Mountain High	II	Transformation	No	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. The principal was replaced as part of a previous reform effort.	$511,787.00		X
									$521,218.00		
4		**Mt. Diablo Unified**							$933,557.00		

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Bel Air Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$1,441,662.00		X
		Glenbrook Middle	II	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$584,002.00		X
		Rio Vista Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$443,230.00		X
		Shore Acres Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$1,635,189.00		X
									$5,037,640.00		
4		**Oakland Unified**							$153,333.00		
		Elmhurst Community Prep	I	Transformation	Yes	NA	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,277,931.00	X	X

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Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		United for Success Academy	I	Transformation	Yes	NA	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,340,875.00	X	X
									$2,772,139.00		
5		**Pajaro Valley Unified**							$716,395.00		
		Calabasas Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$536,370.00		X
		Hall District Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$523,942.00		X
		T. S. MacQuiddy Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$480,228.00		X
									$2,256,935.00		
11		**Palmdale Elementary**							$258,823.00		

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Cactus Middle	II	Turnaround	Yes	Yes	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,858,140.00	X	X
		Tumbleweed Elementary	I	Turnaround	Yes	Yes	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,614,976.00	X	X
									$3,731,939.00		
11		**Pomona Unified**							$202,329.00		
		Emerson Middle	II	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,494,649.00		X
		Fremont Middle	II	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,758,495.00		X
		Pomona Senior High	II	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,877,304.00		X

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The Cohort 1 Local Educational Agencies and Schools
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Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
									$5,332,777.00		
4		**Ravenswood City Elementary**							$298,236.00		
		Costano Elementary	I	Turnaround	Yes	No	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Replaced staff after the beginning of the school year on January 3.	$1,358,062.00		X
		Ronald McNair Intermediate	I	Turnaround	Yes	No	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Replaced staff after the beginning of the school year on August 26.	$1,358,062.00		X
									$3,014,360.00		
10		**Riverside COE**							$287,489.00		
		Riverside County Community	I	Transformation	Yes	NA	No	The LEA needs to implement increased learning time in teacher collaboration and revise its implementation charts to remove the designation of ILT from non-ILT activities.	$1,563,941.00	X	X
									$1,851,430.00		
10		**San Bernardino City Unified**							$1,554,087.00		
		Arroyo Valley High	II	Transformation	Yes	NA	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$2,000,000.00		X

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The Cohort 1 Local Educational Agencies and Schools
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										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Barton Elementary	I	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$1,797,470.00	X	X
		Davidson Elementary	I	Transformation	Yes	NA	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$1,142,900.00		X
		Hunt Elementary	I	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,177,187.00		X
		Marshall Elementary	I	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$1,652,010.00		X
		Pacific High	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$2,000,000.00	X	X
		Rio Vista Elementary	I	Transformation	Yes	NA	No	It is not clear if an increase in teacher collaboration occurred at the beginning of the 2010-11 SY. Some activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,300,030.00		X

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		San Gorgonio High	II	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$2,000,000.00	X	X
		Serrano Middle	II	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,522,140.00	X	X
		Shandin Hills Middle	II	Turnaround	Yes	Yes	NO	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,558,500.00		X
		Wilson Elementary	I	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time occurred in enrichment for all students at the beginning of the 2011-11 SY.	$800,030.00		X
									$18,504,354.00		
9		**San Diego Unified**							$31,257.00		
		Burbank Elementary (San Diego)	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,347,295.00	X	X

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The Cohort 1 Local Educational Agencies and Schools
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Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
									$1,378,552.00		
4		**San Francisco Unified**							$1,128,511.00		
		Brown, Jr., (Willie L.) Elementary	I	Closure	NA	NA	NA		$0.00		
		Bryant Elementary	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,937,377.67		X
		Cesar Chavez Elementary	I	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,986,239.00		X
		Everett Middle	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,342,237.00		X
		George Washington Carver	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,840,419.26		X
		Horace Mann Middle	I	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,411,335.00		X

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		John Muir Elementary	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,863,400.00		X
		John O'Connell Alternative High	II	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,636,855.20		X
		Mission High	II	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,951,683.00		X
		Paul Revere Elementary	I	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,999,259.00		X
									$17,097,316.13		
3		**San Juan Unified**							$207,516.80		
		Encina Preparatory High	II	Turnaround	Yes	Yes	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,086,082.85		X
									$1,293,599.65		
4		**San Lorenzo Unified**							$31,881.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Hillside Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$521,532.00		X
									$553,413.00		
9		**Santa Ana Unified**							$154,725.00		
		Century High	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,975,000.00	X	X
		Saddleback High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,972,228.00	X	X
		Santa Ana High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,972,228.00	X	X

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Sierra Intermediate	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$2,000,000.00	X	X
		Valley High	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,972,228.00	X	X
		Willard Intermediate	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,811,515.00	X	X
									$11,857,924.00		
8		**Semitropic Elementary**							$1,333,333.00		
		Semitropic Elementary	I	Transformation	Yes	NA	Yes	Goverance and social emotional elements has not been implemented.	$1,155,291.00		X
									$2,488,624.00		
5		**Soledad Unified**							$75,691.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Rose Ferrero Elementary	I	Turnaround	Yes	Yes	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,489,992.00		X
									$1,565,683.00		
4		**Stanford New School**							$68,820.00		
	Yes	Stanford New School	I	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,320,423.00	X	X
									$1,389,243.00		
3		**Twin Rivers Unified**							$288,393.00		
		Highlands High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,591,711.00	X	X
									$1,880,104.00		
8		**Wasco Union Elementary**							$33,017.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Palm Avenue Elementary	I	Transformation	No	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. The principal was replaced as part of a previous reform effort.	$1,178,753.00	X	X
									$1,211,770.00		
4		**West Contra Costa Unified**							$111,957.00		
		Lincoln Elementary	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,833,319.00	X	X
									$1,945,276.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 3

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Elementary and Secondary Education Act: School Improvement Grant: Approval of Renewal of Funding for Year 2 of Cohort 1 Fiscal Year 2009 Local Educational Agencies and Schools for the Sub-Grants Under Section 1003(g).	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the list of Cohort 1 local educational agencies (LEAs) and schools for renewal of the fiscal year (FY) 2009 School Improvement Grant (SIG) Sub-grants under Section 1003(g) of the Elementary and Secondary Education Act (ESEA). The list will be provided as Attachment 1 in an Item Addendum.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its August 24, 2010, meeting, the SBE approved a list of LEAs and schools contingent on approval by the U.S. Department of Education (ED) of California's request for a waiver of a requirement to reserve 25 percent of current-year SIG funding.

Also on August 24, 2010, California was informed that it had received conditional approval of its waiver request to reserve 25 percent of current year SIG funding. The conditions that the ED established regarding the waiver's approval included that all LEAs approved for funding must revise their SIG applications to reflect the revised funding amounts approved by the SBE and that all LEAs approved for funding provide assurance that they will be able to fully and effectively implement the selected intervention model for each funded school with the reduced SIG funding amounts.

At its August 2, 2010, meeting, the SBE considered a CDE recommendation to provide SIG funding to 31 LEAs (66 schools). The SBE deferred action on SIG funding because of concerns regarding the funding needs of some larger LEAs, identified as Priority 2 (LEAs who commit to fund some, but not all, of their Tier I and II schools). The SBE acted to pursue discussions with the ED to consider options for alternative funding

SUMMARY OF PREVIOUS (Cont.)

decisions and directed the CDE to submit a waiver request, on behalf of the CDE and SBE, of the federal requirement to reserve 25 percent of current-year SIG funding if not all Tier I and Tier II schools are funded.

At its July 2010 meeting, the SBE was provided information regarding California's efforts to secure approval of the state's SIG application, including the revision of several application elements, and the ED's ultimate approval of California's application. During the revision process, SBE staff worked with CDE staff to identify revisions that reflected state policies concerning school improvement while complying with federal SIG requirements. Following the ED's approval of the application, the CDE forwarded a Request for Applications (RFA) to 76 SIG eligible LEAs with 188 schools in Tier I and Tier II and to 477 LEAs with 2,532 schools in Tier III.

At its March 2010 SBE meeting, the SBE reviewed and approved California's 2010 SIG application. In addition to approving the state's SIG application, the SBE acted to request five waivers of federal requirements to allow for effective implementation of the new SIG program design. To ensure that the SIG program could be implemented as intended, the ED had invited states to apply for these five waivers concerning: (1) extension of the SIG funding term to three years; (2) program improvement status for some participating schools; (3) eligibility to implement a schoolwide program; (4) establishing a minimum n-size to qualify as a lowest-achieving school; and (5) definition of "Tier II" schools. Subsequent to the SBE's action to seek these waivers, California made a formal waiver request to the ED and received approval on all five waivers.

SUMMARY OF KEY ISSUES

As with any federal education program administered through a State, the CDE is responsible for ensuring that SIG funds are awarded to LEAs and are used by LEAs in accordance with the statutory requirements and the SIG final requirements. This requires the CDE to ensure that SIG funds it awards to an LEA are used to implement one of the four school intervention models in each Tier I and Tier II school the LEA commits to serve and to carry out school improvement activities in the Tier III schools the LEA commits to serve. Fulfilling this responsibility includes designing an LEA application, carrying out the application review process, and monitoring implementation.

The CDE is also required to ensure that LEAs use SIG funds to supplement, not supplant, existing services and are not used to supplant federal, state, local, or nonfederal funds. An LEA that commits to serve one or more Tier I, Tier II, or Tier III schools that do not receive Title I, Part A funds must ensure that each of those schools receives all of the state and local funds it would have received in the absence of the SIG funds.

The LEA must monitor each Tier I and Tier II school that receives SIG funds to determine whether the school:

SUMMARY OF KEY ISSUES (Cont.)

(1) Is meeting annual goals established by the LEA for student achievement on the State's ESEA assessments in both reading/language arts and mathematics.

(2) Is making progress on the leading indicators described in the final requirements.

The CDE is required to review annually the LEA's progress on its annual school goals for student achievement for each of its Tier I and Tier II schools. Due to the fact that California's accountability data is not released until September 2011 and because it may be difficult for a persistently lowest-achieving school to show much improvement in academic achievement during the first year of implementing one of the school intervention models, the CDE has discretion to examine factors such as the school's progress on the leading indicators in Section III of the final requirements or the fidelity with which it is implementing the model in deciding whether to renew the LEA's SIG grant with respect to that school. As a result, renewal recommendations are based on information from the following:

Fiscal Monitoring

SIG sub-grantees must submit quarterly expenditure reports to the CDE by the following dates: October 31, January 31, April 30, and July 31 for the duration of their sub-grant award. The LEA or chartering authority is responsible for ensuring that reports are accurate, complete, and submitted on time. Expenditure reports are reviewed to ensure that each school is expending at least 75 percent of the SIG funds that has been disbursed to it thus far.

Programmatic Monitoring

CDE staff has conducted phone conferences with LEA personnel using a phone call protocol (Attachment 2) developed specifically for the SIG. The 60–90 minute conference call occurred between Regional Coordination and Support Office staff and LEA and school staff to verify that required school intervention model components are being implemented.

FISCAL ANALYSIS (AS APPROPRIATE)

SIG funds provide LEAs with grants ranging from $50,000 to $2 million per year per school for up to three years. A maximum of $415,844,376 million is available under Section 1003(g) for this cohort of schools for a three-year period beginning in 2009–10.

ATTACHMENT(S)

Attachment 1: The Cohort 1 Local Educational Agencies and Schools Recommended for Year 2 Renewal of School Improvement Grant Funding will be provided in an Item Addendum.

Attachment 2: SIG Phone Call Protocol (6 pages)

SIG Phone Call Protocol

District Name: _____

Staff Interviewed: _____

General

1. How is the LEA ensuring that each SIG school:

    - Is fully implementing the selected intervention model in the school year?

    - Is meeting the requirements of the school's intervention model?

2. How is the LEA ensuring the SIG funds are being spent as described in your application? Do you anticipate having any carryover funds?

3. How is the LEA ensuring that district-level activities conducted with SIG funds are specifically supporting SIG schools?

4. Has the LEA made any structural changes to support the implementation of the SIG intervention model?

5. How is the LEA ensuring that a school being served with SIG funds is still receiving all the funds that it would have received without the SIG award?

SIG Phone Call Protocol

6. Has the LEA made any contractual changes or agreements with the labor union to ensure full and effective implementation of the intervention models (if applicable)?

7. With regards to technical assistance, how has the LEA supported, how does it currently support, and how does it plan to support schools in implementing the SIG program?

8. Describe generally the LEA's process for collecting data on the leading indicators below. A discussion of each individual item is not required.

    - Number of minutes within the school year;
    - Student participation rate on State assessments in reading/language arts and in mathematics, by student subgroup;
    - Dropout rate;
    - Student attendance rate;
    - Number and percentage of students completing advanced coursework
    - Discipline incidents;
    - Truants;
    - Distribution of teachers by performance level on an LEA's teacher evaluation system; and
    - Teacher attendance rate.

9. Has the LEA noticed any significant trends in the leading indicators that are informing its decision-making and reform efforts?

10. Is the LEA collecting any additional data beyond that required by the CDE and the SIG program?

SIG Phone Call Protocol

Transformation Model Specific Questions

1. How long has the principal been at this school? Was a retained principal part of a previous reform effort?

School	Principal	Date

2. How is the staff evaluated? How was that system developed?

3. What systems of rewards are in place for staff that are having a positive impact on student achievement and graduation rates? How does the school support teachers who may be struggling?

4. What types of strategies have been implemented to recruit, place, and retain staff who have the skills necessary to meet the needs of the students in the transformation school (e.g., financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions)?

5. What types of professional development or professional support systems have been provided to support the implementation of school reform strategies (e.g., implementing new instructional programs, analyzing data, or teaching LEP students)?

SIG Phone Call Protocol

6. What instructional programs or strategies are being used? Which of these are new?

7. How has data been used to drive decisions?

8. What types of operational flexibility (e.g., staffing, calendars/time, and budgeting) has the school been given? What policies were implemented to support the school?

9. Describe in which ways learning time (e.g., longer school year, longer school day, before or after school, summer school, weekend school) has increased and indicate whether the increase is in: (1) core academic subjects; (2) other subjects and enrichment activities; or (3) teacher collaboration and professional development. Please note: learning time must increase in all three areas listed above.

10. What efforts have been made this year to engage families and the community in the school? How is that different from last year?

SIG Phone Call Protocol

Turnaround Model Specific Questions

1. How long has the principal been at this school? Was a retained principal part of a previous reform effort?

School	Principal	Date

2. What new authority has been given to the principal with regards to the implementation of your school reform effort (e.g., staffing, calendars, scheduling, budgeting)?

3. What locally adopted competencies were used to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students for the purpose of: (1) screening all existing staff and rehiring no more than 50 percent; and (2) selecting new staff?

4. What types of strategies have been implemented to recruit, place, and retain staff who have the skills necessary to meet the needs of the students in the turnaround school (e.g., financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions)?

5. What types of professional development or professional support systems have been provided to support the implementation of school reform strategies (e.g., implementing new instructional programs, analyzing data, or teaching LEP students)?

SIG Phone Call Protocol

6. What type of new governance structure has been adopted? This may include, but is not limited to, requiring the school to report to a new turnaround office in the LEA, hiring a turnaround leader who reports directly to the Superintendent or Chief Academic Officer, or the school entering into a multi-year contract with the LEA to obtain added flexibility in exchange for greater accountability.

7. What instructional programs or strategies are being used? Which of these are new?

8. How has data been used to drive decisions?

9. Describe in which ways learning time (e.g., longer school year, longer school day, before or after school, summer school, weekend school) has increased and indicate whether the increase is in: (1) core academic subjects; (2) other subjects and enrichment activities; or (3) teacher collaboration and professional development. Please note: learning time must increase in all three areas listed above.

10. What types of social-emotional and community-oriented services and supports are being provided for students?

ITEM ADDENDUM

DATE: July 8, 2011

TO: MEMBERS, State Board of Education

FROM: TOM TORLAKSON, State Superintendent of Public Instruction

SUBJECT: Item 3 – Elementary and Secondary Education Act: School Improvement Grant: Approval of Renewal of Funding for Year 2 of Cohort 1 Fiscal Year 2009 Local Educational Agencies and Schools for the Sub-Grants Under Section 1003(g).

Summary of Key Issues

Attachment 1 provides the recommended list of Cohort 1 local educational agencies and their respective schools for year 2 renewals and a summary of their intervention model activities identified for corrective action.

Attachment(s)

Attachment 1: The Cohort 1 Local Education Agencies and Schools Recommended for Year 2 Renewal of School Improvement Grant Funding (21 Pages)

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
11		**ABC Unified**							$98,665.00		
		Pharis F. Fedde Middle	II	Transformation	Yes	NA	No	It is not clear that core instructional time increased from the previous year by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,119,059.00		X
									$1,217,724.00		
8		**Adelante Charter**							$0.00		
	Yes	Adelante Charter	I	Transformation	Yes	NA	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$298,824.00		X
									$298,824.00		
10		**Alvord Unified**							$0.00		
		Norte Vista High	II	Turnaround	Yes	Yes	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,894,722.24	X	X
									$1,894,722.24		
11		**Antelope Valley Union High**							$91,259.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Eastside High	II	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,669,000.00		X
		Littlerock High	II	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,722,900.00	X	X
									$3,483,159.00		
5		**Aromas/San Juan Unified**							$147,066.00		
		San Juan	I	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,410,233.00		X
									$1,557,299.00		
8		**Buttonwillow Union Elementary**							$0.00		
		Buttonwillow Elementary	I	Transformation	Yes	NA	No	It is not clear that instructional time in enrichment increased from the previous year for all students by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$432,943.00		X
									$432,943.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
5		**Chualar Union Elementary**							$88,673.00		
		Chualar Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core. Increased enrichment time did not commence until 10/01/2011.	$205,508.00	X	X
									$294,181.00		
10		**Coachella Valley Unified**							$451,819.00		
		West Shores High	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core or enrichment for all students by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are either not available to all students or are not directly related to ILT.	$1,214,848.00	X	X
									$1,666,667.00		
9		**Escondido Union Elementary**							$71,223.00		
		Felicita Elementary	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$1,604,119.00	X	X
									$1,675,342.00		
10		**Fontana Unified**							$0.00		
		Fontana A. B. Miller High	II	Transformation	Yes	NA	No	It is not clear that core instructional time increased from the previous year by the beginning of 2010-11 SY. It is not clear how some activities in the Implementation Chart relate to ILT.	$2,000,000.00	X	X

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
									$2,000,000.00		
7		**Fresno Unified**							$395,893.00		
		Carver Academy	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$856,794.00	X	X
		Webster Elementary	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,557,691.00	X	X
		Yosemite Middle	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased for enrichment or teacher collaboration by the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,733,715.00		X
									$4,544,093.00		
5		**Greenfield Union Elementary**							$368,928.00		
		Greenfield Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$476,525.00	X	X

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Vista Verde Middle	I	Transformation	Yes	NA	No	Instructional time has not increased in core by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$494,998.00	X	X
									$1,340,451.00		
4		**Hayward Unified**							$390,224.00		
		Burbank Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,587,115.00		X
		Longwood Elementary	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,626,978.00		X
		Tennyson High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,795,293.00		X
									$5,399,610.00		
9		**King-Chavez Arts Academy**							$465,262.50		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
	Yes	King-Chavez Arts Academy	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$873,437.50	X	X
									$1,338,700.00		
4		**La Honda-Pescadero Unified**							$110,608.00		
		Pescadero Elementary and Mid	I	Transformation	Yes	NA	No	The LEA needs to clarify the students served and areas addressed for the summer, early morning, and Saturday programs. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$674,340.00	X	X
									$784,948.00		
7		**Lakeside Union Elementary**							$73,582.00		
		Lakeside Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment by the beginning of 2010-11 SY. Some activities in the Implementation Charts are not available to all students and do not satisfy ILT criteria.	$934,140.00		X
									$1,007,722.00		
7		**Lindsay Unified**							$43,901.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Jefferson Elementary	I	Turnaround	Yes	NA	No	It is not clear that instructional time increased in enrichment for all students by the beginning of 2010-11 SY.	$878,015.00	X	X
									$921,916.00		
11		**Los Angeles Unified**							$895,629.00		
		Edwin Markham Middle	I	Restart	NA	NA	NA		$1,822,117.00		
		Florence Griffith Joyner Elementary	I	Restart	NA	NA	NA	Student incentives are not an allowable expenditure.	$1,849,952.00	X	
		Gardena Senior High	I	Transformation	Yes	NA	No	It is not clear that instructional time in core increased from the previous year for all students by the beginning of 2010-11 SY. It is also not evident that teacher collaboration increased from the previous year. Some activities do not qualify as ILT due to lack of evidence in addressing core, enrichment, teacher collaboration as well as including all students.	$1,636,960.00	X	X
		George Washington Carver Middle	I	Restart	NA	NA	NA		$1,855,687.00		
		Hillcrest Drive Elementary	I	Transformation	Yes	NA	No	Some activities do not qualify as ILT due to lack of evidence in addressing core, enrichment, teacher collaboration as well as including all students.	$1,855,212.00		X
		Maywood Academy High	II	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment for all students by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are either not available to all students or are not directly related to ILT.	$1,892,854.00		X
		Robert Louis Stevenson Middle	I	Restart	NA	NA	NA	Student incentives are not an allowable expenditure.	$1,855,358.00	X	
		Samuel Gompers Middle	I	Restart	NA	NA	NA	Student incentives are not an allowable expenditure.	$1,855,056.00	X	

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Thomas Jefferson Senior High	I	Transformation	Yes	NA	No	Instructional time has not increased in core or enrichment for all students. Activities identified in the Implementation Charts are either not available to all students or are not directly related to ILT.	$1,855,782.00	X	X
									$17,374,607.00		
3		**Marysville Joint Unified**							$90,433.00		
		Ella Elementary	I	Turnaround	Yes	Yes	No	It is not clear that instructional time increased in enrichment for all students by the beginning of 2010-11 SY. Some activites listed as ILT in the Implementation Chart are not a form of ILT.	$1,806,549.00	X	X
									$1,896,982.00		
8		**McFarland Unified**							$129,600.00		
		McFarland High	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some activites listed as ILT in the Implementation Chart are not a form of ILT.	$997,851.83		X
									$1,127,451.83		
5		**Monterey Peninsula Unified**							$1,472,291.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Highland Elementary	I	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core instruction for all students at the beginning of the 2010-11 SY. It is not clear that an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Activities listed as ILT in the implementation chart are not a form of ILT.	$1,126,483.00		X
		Martin Luther King	I	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core instruction for all students at the beginning of the 2010-11 SY. It is not clear that an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,126,483.00		X
		Seaside High	II	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Activites listed as ILT in the Implementation Chart are not a form of ILT.	$1,608,078.00		X
									$5,333,335.00		
10		**Moreno Valley Unified**							$9,431.00		
		March Mountain High	II	Transformation	No	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. The principal was replaced as part of a previous reform effort.	$511,787.00		X
									$521,218.00		
4		**Mt. Diablo Unified**							$933,557.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Bel Air Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$1,441,662.00		X
		Glenbrook Middle	II	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$584,002.00		X
		Rio Vista Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$443,230.00		X
		Shore Acres Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$1,635,189.00		X
									$5,037,640.00		
4		**Oakland Unified**							$153,333.00		
		Elmhurst Community Prep	I	Transformation	Yes	NA	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,277,931.00	X	X

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		United for Success Academy	I	Transformation	Yes	NA	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,340,875.00	X	X
									$2,772,139.00		
5		**Pajaro Valley Unified**							$716,395.00		
		Calabasas Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$536,370.00		X
		Hall District Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$523,942.00		X
		T. S. MacQuiddy Elementary	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY.	$480,228.00		X
									$2,256,935.00		
11		**Palmdale Elementary**							$258,823.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Cactus Middle	II	Turnaround	Yes	Yes	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,858,140.00	X	X
		Tumbleweed Elementary	I	Turnaround	Yes	Yes	No	An increase in learning time in core instruction did not occur for all students at the beginning of the 2010-11 SY. It is not clear if an increase in learning time in enrichment for all students occurred at the beginning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,614,976.00	X	X
									$3,731,939.00		
11		**Pomona Unified**							$202,329.00		
		Emerson Middle	II	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,494,649.00		X
		Fremont Middle	II	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,758,495.00		X
		Pomona Senior High	II	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,877,304.00		X

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
									$5,332,777.00		
4		**Ravenswood City Elementary**							$298,236.00		
		Costano Elementary	I	Turnaround	Yes	No	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Replaced staff after the beginning of the school year on January 3.	$1,358,062.00		X
		Ronald McNair Intermediate	I	Turnaround	Yes	No	No	It is not clear that instructional time increased teacher collaboration by the beginning of 2010-11 SY. Replaced staff after the beginning of the school year on August 26.	$1,358,062.00		X
									$3,014,360.00		
10		**Riverside COE**							$287,489.00		
		Riverside County Community	I	Transformation	Yes	NA	No	The LEA needs to implement increased learning time in teacher collaboration and revise its implementation charts to remove the designation of ILT from non-ILT activities.	$1,563,941.00	X	X
									$1,851,430.00		
10		**San Bernardino City Unified**							$1,554,087.00		
		Arroyo Valley High	II	Transformation	Yes	NA	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$2,000,000.00		X

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Barton Elementary	I	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$1,797,470.00	X	X
		Davidson Elementary	I	Transformation	Yes	NA	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$1,142,900.00		X
		Hunt Elementary	I	Turnaround	Yes	Yes	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,177,187.00		X
		Marshall Elementary	I	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY.	$1,652,010.00		X
		Pacific High	I	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$2,000,000.00	X	X
		Rio Vista Elementary	I	Transformation	Yes	NA	No	It is not clear if an increase in teacher collaboration occurred at the beginning of the 2010-11 SY. Some activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,300,030.00		X

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		San Gorgonio High	II	Transformation	Yes	NA	No	An increase in learning time did not occur in core and enrichment for all students or in teacher collaboration at the beginning of 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$2,000,000.00	X	X
		Serrano Middle	II	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,522,140.00	X	X
		Shandin Hills Middle	II	Turnaround	Yes	Yes	NO	It is not clear if an increase in learning time in core and enrichment for all students and teacher collaboration occurred at the beginnning of the 2010-11 SY. Some of the activities listed as ILT in the Implementation Chart are not a form of ILT.	$1,558,500.00		X
		Wilson Elementary	I	Turnaround	Yes	Yes	No	It is not clear if an increase in learning time occurred in enrichment for all students at the beginning of the 2011-11 SY.	$800,030.00		X
									$18,504,354.00		
9		**San Diego Unified**							$31,257.00		
		Burbank Elementary (San Diego)	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,347,295.00	X	X

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
									$1,378,552.00		
4		**San Francisco Unified**							$1,128,511.00		
		Brown, Jr., (Willie L.) Elementary	I	Closure	NA	NA	NA		$0.00		
		Bryant Elementary	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,937,377.67		X
		Cesar Chavez Elementary	I	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,986,239.00		X
		Everett Middle	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,342,237.00		X
		George Washington Carver	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,840,419.26		X
		Horace Mann Middle	I	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,411,335.00		X

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		John Muir Elementary	I	Turnaround	Yes	No	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. Staff Replacement will not be in place until year 2.	$1,863,400.00		X
		John O'Connell Alternative High	II	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,636,855.20		X
		Mission High	II	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,951,683.00		X
		Paul Revere Elementary	I	Transformation	Yes	NA	No	Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,999,259.00		X
									$17,097,316.13		
3		**San Juan Unified**							$207,516.80		
		Encina Preparatory High	II	Turnaround	Yes	Yes	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,086,082.85		X
									$1,293,599.65		
4		**San Lorenzo Unified**							$31,881.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Hillside Elementary	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$521,532.00		X
									$553,413.00		
9		**Santa Ana Unified**							$154,725.00		
		Century High	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,975,000.00	X	X
		Saddleback High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,972,228.00	X	X
		Santa Ana High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,972,228.00	X	X

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Sierra Intermediate	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$2,000,000.00	X	X
		Valley High	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,972,228.00	X	X
		Willard Intermediate	I	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,811,515.00	X	X
									$11,857,924.00		
8		**Semitropic Elementary**							$1,333,333.00		
		Semitropic Elementary	I	Transformation	Yes	NA	Yes	Goverance and social emotional elements has not been implemented.	$1,155,291.00		X
									$2,488,624.00		
5		**Soledad Unified**							$75,691.00		

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The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

										Renewal	
Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Budget Revision	Corrective Action Plan
		Rose Ferrero Elementary	I	Turnaround	Yes	Yes	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,489,992.00		X
									$1,565,683.00		
4		**Stanford New School**							$68,820.00		
	Yes	Stanford New School	I	Transformation	Yes	NA	Yes	LEA appears to have met requirement of ILT. However, Implementation Charts need to be revised to remove the designation of ILT from non-ILT related activities.	$1,320,423.00	X	X
									$1,389,243.00		
3		**Twin Rivers Unified**							$288,393.00		
		Highlands High	II	Transformation	Yes	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,591,711.00	X	X
									$1,880,104.00		
8		**Wasco Union Elementary**							$33,017.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

The Cohort 1 Local Educational Agencies and Schools
Recommended for Year 2 Renewal of School Improvement Grant Funding

Region	Charter	LEA / School	Tier	Model	Principal Replacement*	Staff Replacement*	Increased Learning Time (ILT)*	Implementation Concerns	Year 2 Request	Renewal: Budget Revision	Renewal: Corrective Action Plan
		Palm Avenue Elementary	I	Transformation	No	NA	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements. The principal was replaced as part of a previous reform effort.	$1,178,753.00	X	X
									$1,211,770.00		
4		**West Contra Costa Unified**							$111,957.00		
		Lincoln Elementary	I	Turnaround	Yes	Yes	No	Instructional time has not increased in core, enrichment, or teacher collaboration by the beginning of 2010-11 SY. Activities identified in the Implementation Charts are not sufficiently explained, may not be available to all students, or do not meet ILT requirements.	$1,833,319.00	X	X
									$1,945,276.00		

* Implementation required on day 1 of year 1 of the 3-year grant period; other required elements may be implemented during year 1.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 4

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Request a Waiver Under Title I, Part A Section 9401 to Carry Over 100 Percent of the Fiscal Year 2010 School Improvement Grant Allocation.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve a request for waiver (Attachment 1) to carry over 100 percent of the Fiscal Year (FY) 2010–11 School Improvement Grant (SIG) allocation to be awarded along with the FY 2011 allocation for awards beginning in the 2012–13 school year. The FY 2010 and FY 2011 funds will be combined to award sub-grants for the first two years of the three-year grant period (2012–13 and 2013–14 school years); the third year (2014–15) of the grant award period will be funded using FY 2012 allocation.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its January 2011 meeting, the SBE authorized the SBE President or designated liaison, along with the State Superintendent of Public Instruction, to approve California's SIG application to the U.S. Department of Education (ED). The SBE authorized the CDE to make the 2010 SIG Request for Applications (RFA) available to eligible schools not served in the 2009 SIG application process. There were a total of 543 LEAs, including 2,885 schools (72 Tier I, 25 Tier II, and 2,790 Tier III; see definitions of tiers on the CDE Definition of Tiers I, II, and III Web page at http://www.cde.ca.gov/ta/ac/pl/definitions.asp) that were not funded in FY 2009 and were eligible to apply for funding under the 2010 SIG Application. Tier III schools are eligible to apply for this funding; however Tier III schools have a lower priority for funding than Tier I and Tier II schools, and California's award is not sufficient to fund Tier III schools.

Pursuant to the ED's expectation that state educational agencies (SEAs) use funds to maximize the number of schools being served, the SBE authorized the CDE to use all of the FY 2010 funds to make first-year only awards of a three-year SIG grant to approximately thirty schools, with continuation awards in years two and three coming from subsequent SIG appropriations. The SBE also approved a funding priority based on a determination of schools with greatest need as well as the geographic distribution of Tier I and Tier II schools throughout the state.

SUMMARY OF KEY ISSUES

California's Application

California initially submitted its SIG application to the ED on January 30, 2011. Since that initial submission, the ED made several requests for revision or clarification of elements of California's current SIG application, including the SEA SIG application and draft LEA RFA. On each occasion, based on ED comments, refinements were made to the RFA and the updated document was forwarded at the request of the ED.

Concurrently, the ED conducted an onsite review of Cohort I SIG LEAs and schools in March 2011. Preliminary findings were provided to the SBE and CDE staff May 6, 2011, indicating a number of areas of concern. The concerns ranged from inadequate implementation of required elements in some selected SIG reform models, such as increased learning time, to a failure to implement a required element, such as replacement of at least half of a school's staff. Also simultaneously, the CDE staff began a process of evaluating SIG implementation in Cohort 1 schools to prepare a recommendation for the SBE regarding renewal for the second year of the three-year award.

California submitted the most recent draft documents for California's SIG application to the ED for review and approval on April 13, 2011, and the ED granted approval on May 26, 2011. However, the preparation of a response to the ED monitoring visit and the continued work with SIG Cohort 1 LEAs schools has provided the CDE staff with additional information about LEAs' depth of understanding of required SIG elements, their capacity to implement those elements, and the kind of technical assistance needed to support effective implementation. This work continued through early July 2011.

Local Educational Agency Sub-grants

LEAs with schools identified as either Tier I or Tier II were eligible to apply for SIG funding to implement one of the four school intervention models through a RFA process. The RFA required LEAs to identify the intervention model selected for each school and to submit narrative budgetary information describing specifically how the funds will be used at each school awarded SIG funds. The RFA required a description of planned services and activities to be conducted, timelines for accomplishing those activities, projected costs, resources required, and personnel responsible for oversight of program implementation.

LEA applications were due to the CDE no later than June 3, 2011. The CDE conducted a readers' conference from June 13–16, 2011, to review and rate the applications.

Based on findings from the Readers' Conference and a subsequent review by CDE staff, the CDE has determined that LEAs did not provide an adequate proposal to meet the SIG requirements in the following areas: providing increased learning time (ILT) for students in three required areas: core instruction for students, enrichment for students, and for teachers to collaborate and receive training. Specifically, many LEAs are proposing activities that are either not available to all students or do not address one of

SUMMARY OF KEY ISSUES (Cont.)

the three required areas. In addition, in the course of the CDE's review of SIG FY 2009 - Cohort 1 implementation progress, it was discovered that the majority of those LEAs proposed similar items that do not meet the ED definition of ILT. These reviews have also revealed that many Cohort 1 LEAs have not yet implemented activities that meet the ILT requirement, despite the fact that they were required to do so by the first day of the 2010–11 school year (SY). Several LEAs have also not successfully implemented the Turnaround model requirement of replacing 50 percent of the school staff by the beginning of the 2010–11 SY.

As a result, the CDE is proposing a waiver request to carry over 100 percent of the FY 2010 funds. The waiver will allow CDE additional time to provide the assistance necessary for LEAs to create viable proposals for implementation in the 2012–13 SY. These actions would result in refined support for Cohort II and increase all LEAs' ability to successfully compete for SIG funds and fully implement the selected intervention model. The CDE proposes to conduct the competition in the Fall of 2011 and award funds in early 2012; this timeline will allow LEAs sufficient time to implement the optional pre-implementation component that was introduced for FY 2010.

In addition, these actions will give the CDE more time and opportunity to better provide technical assistance to its Cohort 1 SIG LEAs in creating corrective action plans to address required components that have not yet been implemented.

FISCAL ANALYSIS (AS APPROPRIATE)

The SIG funds were anticipated to provide LEAs with grants ranging from $50,000 to $2 million per school per year. A maximum of $69 million is available under Section 1003(g) for FY 2010. If the waiver is approved, the combined FY 2010 and FY 2011 funds will be used to make two-year only awards of a three-year grant, with the continuation award in year three coming from the FY 2012 appropriation.

ATTACHMENT(S)

Attachment 1: Draft letter dated July 14, 2011, to Thelma Melendez de Santa Ana, Assistant Secretary, U.S. Department of Education, regarding California's request for waiver related to carry over of the FY 2010–11 School Improvement Grant allocation (2 Pages)

CALIFORNIA DEPARTMENT OF EDUCATION
TOM TORLAKSON, State Superintendent of Public Instruction
916-319-0800

CALIFORNIA STATE BOARD OF EDUCATION
MICHAEL W. KIRST, President
916-319-0827

1430 N Street Sacramento, CA 95814-5901

DRAFT July 14, 2011

Thelma Melèndez de Santa Ana, Assistant Secretary
Office Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW, Suite 3W230
Washington, DC 205202-6100

Dear Assistant Secretary Melèndez de Santa Ana:

The state of California hereby submits for your consideration a waiver requesting to carry over 100 percent of California's Fiscal Year (FY) 2010 School Improvement Grant (SIG) allocation to be awarded along with the FY 2011 allocation. The FY 2010 and FY 2011 funds will be combined to award sub-grants for the first two years of the three-year grant period, with the third year of the grant award period to be funded using FY 2012 allocation for the 2013–14 school year. The state agrees to carry over the funds and assures that it will not draw down on any of the funds until the state receives approval of its FY 2011 SIG application.

The state believes that approval of this waiver will allow it to use the coming year to finalize a thoughtful, comprehensive, and approvable SIG application.

The state assures that it provided all schools in the State that are eligible to receive a SIG grant with notice and a reasonable opportunity to comment on this request and has attached a copy of that notice. To expedite its waiver request, the state will submit subsequently copies of any comments it receives from schools. The state also assures that it provided notice and information regarding this waiver request to the public in the manner in which the State customarily provides such notice and information to the public (e.g., by publishing a notice in the newspaper; by posting information on its Web site) and has attached a copy of, or link to, that notice.

If you have any questions regarding this letter, please contact Deborah V.H. Sigman, Deputy Superintendent, Curriculum, Learning, and Accountability Branch, by phone at 916-319-0812 or by e-mail at dsigman@cde.ca.gov.

Sincerely,

Tom Torlakson
State Superintendent of Public Instruction
California Department of Education

Michael W. Kirst
President
California State Board of Education

TT/MK:jb

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 5

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Additional Providers to the 2011–13 State Board of Education-Approved Supplemental Educational Services Provider List.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve Supplemental Educational Services (SES) providers from the 2011 Request for Applications (RFA) for a two-year period beginning July 1, 2011, through June 30, 2013, from the following categories:

- Applicants from the March 25, 2011, submission deadline previously not recommended for approval that have appealed that decision.
- Applicants from the June 2, 2011, re-release submission deadline who have completed an approvable application.

Finally, the CDE recommends the SBE grant conditional approval to local educational agencies (LEAs) identified for improvement or corrective action to serve as SES providers that have successfully completed the RFA review process. This approval is contingent upon the U.S. Department of Education (ED) granting the waiver request, submitted by the CDE, to waive the provision that prohibits a state educational agency from approving as a provider of SES an LEA identified for improvement or corrective action.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

SES Providers

At its May 2011 meeting, the SBE approved 161 applicants to serve as SES providers from July 1, 2011, through June 30, 2013.

At its November 2010 meeting, the SBE removed a total of 43 providers from the 2008–10 or 2009–11 approved provider list for failure to submit their 2009–10 Accountability Report.

SUMMARY OF PREVIOUS (Cont.)

At its May 2010 meeting, the SBE approved 90 applicants to serve as SES providers from July 1, 2010, through June 30, 2012.

The combined total of SBE-approved SES providers authorized to provide SES for either the 2009–11 or 2010–12 cycle is currently 253. Providers whose authorization expires on June 30, 2011, must reapply during the 2011 RFA release in order to continue providing services.

In January and March 2009, the SBE approved a total of 143 SES providers for a two-year period (July 1, 2009, through June 30, 2011) and removed a total of 98 providers from the 2007–09 or 2008–10 approved provider list who had failed to submit their 2008–09 Accountability Report.

Previously, the SBE had approved 68 SES providers for the 2008–10 list, 196 for the 2007–09 list, 18 for the 2006–08 list, and 263 for the 2005–07 list.

Waiver Requests

At its May 2011 meeting, the SBE authorized the CDE to seek the waiver of 34 *Code of Federal Regulations* (*CFR*) Section 200.47(b)(1)(iv)(A), (B) to allow LEAs identified for improvement or corrective action to apply for and serve as SES providers.

At its July 2010 meeting, the SBE did not authorize the CDE to seek the 2010–11 waiver request of 34 *CFR* Section 200.47(b)(1)(iv)(A) and (B).

At its January 2010 meeting, the SBE approved 14 LEAs in program improvement (PI) to serve as SES providers from January 6, 2010, through June 30, 2010.

At its July 2009 meeting, the SBE authorized the CDE to jointly submit a waiver request to the ED of 34 *CFR* Section 200.47(b)(1)(iv)(A) and (B), which currently prohibits LEAs in PI from serving as SES providers. Approval of this waiver was granted by the ED on October 23, 2009.

SUMMARY OF KEY ISSUES

SES Providers

Title I, Part A, Section 1116(e)(1)(4) of the Elementary and Secondary Education Act (ESEA) requires that an SES provider be approved by the SBE before it can offer tutoring services to low-income students in PI schools Year 2 and beyond. The CDE has been responsible for annually establishing and maintaining a list of SBE-approved SES providers, as described in Section 1116(e)(4) of the ESEA, beginning with the SBE approval of the first cohort at the June 2003 SBE meeting. In February 2011, the CDE issued an RFA for SES providers for the 2011–13 approval cycle. Applications for potential SES providers were due to the CDE on March 25, 2011. CDE and SBE staff reviewed applications at the SES Readers' Conference April 4–13, 2011.

SUMMARY OF KEY ISSUES (Cont.)

The 2011–13 SES Providers' Application Summary will be provided as Attachment 2 in an Item Addendum. The CDE Recommended 2011–13 SES Provider Applicants List will be provided as Attachment 3 in an Item Addendum.

The SES are designed specifically to increase the academic achievement of eligible pupils through tutoring which includes academic services that are:

- Chosen by parents
- Provided outside the school day
- Research based with demonstrated program effectiveness

The CDE evaluated each application using a rubric based on SBE-adopted criteria (Attachment 1). In order to be recommended for approval, applicants must adequately address all four elements of the criteria:

- Element I. Program
- Element II. Staff
- Element III. Research-Based and High Quality Program Effectiveness
- Element IV. Evaluation and Monitoring

FISCAL ANALYSIS (AS APPROPRIATE)

Federal revenues are apportioned to LEAs to support the provision of the SES to students enrolled in Title I schools that advance to PI Year 2 or beyond. An LEA must spend an amount equal to a minimum of 5 percent each to a maximum of 20 percent of its total Title I, Part A allocation, for SES and Choice, unless a lesser amount is needed. Public school choice is a component of ESEA that offers students enrolled in Title I PI Year I schools or beyond to attend a public school that has not been so identified.

ATTACHMENT(S)

Attachment 1: SES RFA Scoring Rubrics, Cohort 2011 (9 pages)

Attachment 2: The 2011–13 Supplemental Educational Services Providers Application Summary will be provided in an Item Addendum.

Attachment 3: The California Department of Education Recommended 2011–13 Supplemental Educational Services Provider Applicant List will be provided in an Item Addendum.

Attachment 4: The California Department of Education Recommended 2011–13 Local Educational Agencies Identified for Improvement or Corrective Action Supplemental Educational Services Provider Applicant List will be provided in an Item Addendum.

ATTACHMENT(S) (Cont.)

Attachment 5: Academic Achievement Data for Local Educational Agencies Identified for Improvement or Corrective Action Recommended for Approval will be provided in an Item Addendum.

Attachment 6: Elementary and Secondary Education Act, Section 1116 (e)(1) and (4) (1 page)

Appendix D. SES RFA Scoring Rubrics

SES RFA SCORING RUBRICS, COHORT 2011

ADVANCED	ADEQUATE	INADEQUATE
Scoring Rubric Terminology of Performance Levels for Each Element:		
Evidence provided in the applicant response substantiates program quality requirements are met at an advanced level of performance, as specified in the element.	Evidence provided in the applicant response substantiates program quality requirements are adequately met, as specified in the element.	Evidence provided in the applicant response does not substantiate program quality requirements are adequately met, as specified in the element.

The application package will be assessed for completion and then reviewed by trained CDE readers to determine the adequacy of responses to the stated requirements.

Details about specific required responses within the SES Provider Profile, the written narrative, and the required support documents are provided in Sections I, II, and III of the Request for Applications (RFA) to Become a SBE-Approved Provider of SES, Cohort 2011.

Note: Applicants are encouraged to review their application against each bullet in the rubric prior to submitting. However, do not include the rubric in the application package submitted to the CDE.

ELEMENT 1. Program Design

Details about the required responses in the written narrative are provided in Section III, Part C, Element 1.
Summary. As set forth in the regulations, the proposed instructional program design meets required criteria to ensure the SES instruction proposed will be as follows:

a) aligned with applicable state-adopted academic content standards, kindergarten through grade twelve (K–12) curriculum frameworks, and instructional materials

b) organized and presented in a manner designed to meet the specific achievement goals of the students

c) coordinated with the students' school program, and includes equitable access to all eligible students, including SWDs and EL

d) high quality and will result in an increase in students' academic achievement in ELA, mathematics, and/or science

e) provided outside of the school day

f) secular, neutral, and non-ideological

ADVANCED	ADEQUATE	INADEQUATE
• The narrative provides advanced evidence of the subject areas to be taught. • The narrative provides advanced evidence of the instruction as outlined in Element 1 and a–f criteria in Section 13075.1 (d) of the California Code of Regulations, Title 5 (5 CCR). • The narrative provides an advanced rationale for the mode of instructional delivery. • The narrative provides advanced evidence and rationale for the instructional materials and resources to be used.	• The narrative provides adequate evidence of the subject areas to be taught. • The narrative provides adequate evidence of the instruction as outlined in Element 1 and a–f criteria Section 13075.1 (d) of the California Code of Regulations, Title 5 (5 CCR). • The narrative provides an adequate rationale for the mode of instructional delivery. • The narrative provides adequate evidence and rationale for the instructional materials and resources to be used.	• The narrative provides inadequate evidence of the subject areas to be taught. • The narrative provides inadequate evidence of the instruction as outlined in Element 1 and a–f criteria Section 13075.1 (d) of the California Code of Regulations, Title 5 (5 CCR). • The narrative provides an inadequate rationale for the mode of instructional delivery. • The narrative provides inadequate evidence and rationale for the instructional materials and resources to be used.
Continued	*Continued*	*Continued*

ELEMENT 1. Program Design

Details about the required responses in the written narrative are provided in Section III, Part C, Element 1.
Summary. As set forth in the regulations, the proposed instructional program design meets required criteria to ensure the SES instruction proposed will be as follows:

a) aligned with applicable state-adopted academic content standards, kindergarten through grade twelve (K–12) curriculum frameworks, and instructional materials

b) organized and presented in a manner designed to meet the specific achievement goals of the students

c) coordinated with the students' school program, and includes equitable access to all eligible students, including SWDs and EL

d) high quality and will result in an increase in students' academic achievement in ELA, mathematics, and/or science

e) provided outside of the school day

f) secular, neutral, and non-ideological

ADVANCED	ADEQUATE	INADEQUATE
• The narrative provides advanced evidence of the accommodations provided to SWDs, ELs, and historically underserved children. The evidence demonstrates deliberate efforts to ensure equitable access to the benefits of the applicant's instructional program in order to meet state academic content standards in ELA, mathematics, or science.	• The narrative provides adequate evidence of the accommodations provided to SWDs, ELs and historically underserved children. The evidence demonstrates equitable access to the benefits of the applicant's instructional program in order to meet state academic content standards in ELA, mathematics, or science.	• The narrative provides inadequate evidence of the accommodations provided to SWDs, ELs, and historically underserved children. There is minimal demonstration of equitable access to benefits of the applicant's instructional program in order to meet state academic content standards in ELA, mathematics, or science.

ELEMENT 2. Staff and Resources

Details about the required responses in the written narrative are provided in Section III, Part C, Element 2.
Summary. As required in regulations, the SES provider meets requirements for qualifications, readiness, and plans for staff development to increase effectiveness of SES staff to improve student achievement with tutoring services. The proposed staffing, fiscal standing, access to equipment, facilities, and instructional materials demonstrate provider compliance with program regulations and applicable federal, state, and local statutes and regulations.

ADVANCED	ADEQUATE	INADEQUATE
• The narrative provides advanced evidence about the staff who will be teaching in the program, their qualifications, ongoing professional development, and job descriptions for unfilled or future positions. • The narrative provides advanced evidence about the fiscal, equipment, and facility resources of the applicant to provide services in accordance with laws and regulations. • The narrative provides advanced evidence about the applicant's procedures for informing districts about personnel changes. The narrative provides advanced evidence about how the applicant will complete and comply with district-required staff background checks, fingerprinting, and TB tests for those employees providing direct services to students. • **(If Applicable)** The narrative provides advanced evidence of any applicable student transportation the applicant may provide.	• The narrative provides adequate evidence about the staff who will be teaching in the program, their qualifications, and ongoing professional development, as well as job descriptions for unfilled or future positions. • The narrative provides adequate evidence about the fiscal, equipment, and facility resources of the applicant to provide services in accordance with laws and regulations. • The narrative provides adequate evidence about the applicant's procedures for informing districts about personnel changes. The narrative provides adequate evidence about how the applicant will complete and comply with district-required staff background checks, fingerprinting, and TB tests for those employees providing direct services to students. • **(If Applicable)** The narrative provides adequate evidence about any applicable student transportation the applicant may provide.	• The narrative provides inadequate evidence about the staff who will be teaching in the program, their qualifications, and ongoing professional development, as well as job descriptions for unfilled or future positions. • The narrative provides inadequate evidence about fiscal, equipment, and facility resources of the applicant to provide services in accordance with laws and regulations. • The narrative provides inadequate evidence about applicant's procedures for informing districts about personnel changes. The narrative provides inadequate evidence about how the applicant will complete and comply with district-required staff background checks, fingerprinting, and TB tests for those employees providing direct services to students. • **(If Applicable)** The narrative provides inadequate evidence about any applicable student transportation the applicant may provide.
Continued	*Continued*	*Continued*

ELEMENT 2. Staff and Resources

Details about the required responses in the written narrative are provided in Section III, Part C, Element 2.
Summary. As required in regulations, the SES provider meets requirements for qualifications, readiness, and plans for staff development to increase effectiveness of SES staff to improve student achievement with tutoring services. The proposed staffing, fiscal standing, access to equipment, facilities, and instructional materials demonstrate provider compliance with program regulations and applicable federal, state, and local statutes and regulations.

ADVANCED	ADEQUATE	INADEQUATE
• **(If Applicable)** The online provider narrative includes advanced evidence about who will provide the online tutoring services, where the tutors are located, the type of equipment the applicant will provide without cost to student participants, how students gain access to tutoring online, and what equipment is required of the parent/guardian and/or LEA.	• **(If Applicable)** The online provider narrative includes adequate evidence about who will provide the online tutoring services, where the tutors are located, the type of equipment the applicant will provide without cost to student participants, how students gain access to tutoring online, and what equipment is required of the parent/guardian and/or LEA.	• **(If Applicable)** The online provider narrative provides inadequate evidence about who will provide the online tutoring services, where the tutors are located, the type of equipment the applicant will provide without cost to student participants, how students gain access to tutoring online, and what equipment is required of the parent/guardian and/or LEA.

ELEMENT 3. High Quality Research and Program Effectiveness

Details about the required responses in the written narrative are provided in Section III, Part C, Element 3.
Summary. The SES provider applicant is able to demonstrate the research base on which the tutoring program is built and validates that the program is an effective method to increase student academic achievement. There is a range of responses in this area on which the applicant is judged. A record of effectiveness that compares the aggregate differences between pre- and post-test results may be deemed adequate provided that the test used is valid and reliable as well as reported using the required tables for the applicant's Record of Effectiveness, Years 1 and 2, as provided in the Template for Narrative Responses. The reporting of individual student data is not accepted. Higher scores are awarded to research designs where pre- and post-test results are compared based on statistical tests of significance. Description of each test instrument used by the applicant is provided. The appropriate responses to the template will constitute evidence that each assessment instrument used to demonstrate improved student academic performance is valid and reliable and conforms to *The Standards for Educational and Psychological Testing* (1999).

ADVANCED	ADEQUATE	INADEQUATE
• The narrative provides solid research-based evidence that substantiates the effectiveness of the applicant's program at increasing student academic achievement. The narrative indicates that the applicant used a statistical test of significance to analyze pre- and post-test differences and/or one of the following: (a) an appropriately applied quasi-experimental design; (b) an experimental design with a control group. • The narrative provides extensive data from valid and reliable assessments to demonstrate that the applicant has been effective in increasing student achievement. • The letters of reference provide advanced testimonial information specific to the effectiveness of the applicant's program.	• The narrative provides adequate research-based evidence that substantiates the effectiveness of the program at increasing student academic achievement. The narrative describes the pre- and post-test results as directed and demonstrates that the test used is valid and reliable. • The narrative provides adequate data from valid and reliable assessments to demonstrate that the applicant has been effective in increasing student achievement. • The letters of reference provide adequate testimonial information specific to the effectiveness of the applicant's program.	• The narrative provides little or no research-based evidence that substantiates the effectiveness of the program at increasing student academic achievement. The pre- and post-test(s) used are not valid and reliable. • The narrative provides inadequate data to demonstrate that the applicant has been effective in increasing student achievement. • The letters of reference provide inadequate testimonial information specific to the effectiveness of the applicant's program.
Continued	*Continued*	*Continued*

ELEMENT 3. High Quality Research and Program Effectiveness

Details about the required responses in the written narrative are provided in Section III, Part C, Element 3.
Summary. The SES provider applicant is able to demonstrate the research base on which the tutoring program is built and validates that the program is an effective method to increase student academic achievement. There is a range of responses in this area on which the applicant is judged. A record of effectiveness that compares the aggregate differences between pre- and post-test results may be deemed adequate provided that the test used is valid and reliable as well as reported using the required tables for the applicant's Record of Effectiveness, Years 1 and 2, as provided in the Template for Narrative Responses. The reporting of individual student data is not accepted. Higher scores are awarded to research designs where pre- and post-test results are compared based on statistical tests of significance. Description of each test instrument used by the applicant is provided. The appropriate responses to the template will constitute evidence that each assessment instrument used to demonstrate improved student academic performance is valid and reliable and conforms to *The Standards for Educational and Psychological Testing* (1999).

ADVANCED	ADEQUATE	INADEQUATE
• The narrative provides extensive evidence about how the assessments were developed for validity and reliability, ensuring that the test development was consistent with required testing standards. • The narrative provides advanced evidence of the program's effectiveness with student sub-groups, i.e., SWDs, ELs, and academically low performing students.	• The narrative provides adequate evidence about how the assessments were developed for validity and reliability, ensuring that the test development was consistent with required testing standards. • The narrative provides adequate evidence of the program's effectiveness with student sub-groups, i.e., SWDs, ELs, and academically low performing students.	• The narrative provides inadequate evidence about how the assessments were developed for validity and reliability consistent with *The Standards for Educational and Psychological Testing* (1999). • The narrative provides inadequate evidence of the program's effectiveness with student sub-groups, i.e., SWDs, ELs, and academically low performing students.

ELEMENT 4. Evaluation and Monitoring

Details about the required responses in the written narrative are provided in Section III, Part C, Element 4.
Summary. The provider will monitor student academic improvement and other aspects of the SES program to make improvements needed to increase academic achievement. The provider will pre- and post-test according to the research-based program design, provide reports on student progress to students, parents, and LEAs, and will maintain data needed to demonstrate effectiveness.

ADVANCED	ADEQUATE	INADEQUATE
• The narrative provides advanced evidence of the applicant's procedures to consult with parents/guardians and school staff to develop specific student achievement goals. • The narrative provides advanced evidence of the applicant's procedures for providing students, parents/guardians, teachers, schools, and LEAs with regular reports of student progress, in their native languages if necessary. • The narrative provides advanced evidence of how student progress will be measured. The narrative includes advanced evidence about which assessments will be used and why. • The narrative provides advanced evidence of how the applicant will secure parental/guardian permission to collaborate with the LEA to access student academic achievement data at the school. • The narrative provides advanced evidence the applicant's process of collaborating with LEAs to use test results and/or other measures used for purposes of accountability to determine the academic growth of students served.	• The narrative provides adequate evidence of the applicant's procedures to consult with parents/guardians and school staff to develop specific student achievement goals. • The narrative provides adequate evidence of the applicant's procedures for providing students, parents/guardians, teachers, schools, and LEAs with regular reports of student progress, in their native languages if necessary. • The narrative provides adequate evidence of how student progress will be measured. The narrative includes adequate evidence about which assessments will be used and why. • The narrative provides adequate evidence of how the applicant will secure parental/guardian permission to collaborate with the LEA to access student academic achievement data at the school. • The narrative provides adequate evidence of the applicant's process of collaborating with LEAs to use test results and/or other measures used for purposes of accountability to determine the academic growth of students served.	• The narrative provides inadequate evidence of the applicant's procedures to consult with parents/guardians and school staff to develop specific student achievement goals. • The narrative provides inadequate evidence of the applicant's procedures for providing students, parents/guardians, teachers, schools, and LEAs with regular reports of student progress, in their native languages if necessary. • The narrative provides inadequate evidence of how student progress will be measured. The narrative inadequately specifies which assessments will be used and why. • The narrative provides inadequate evidence of how the applicant will secure parental/guardian permission to collaborate with the LEA to access student academic achievement data at the school. • The narrative provides inadequate evidence of the applicant's process of collaborating with LEAs to use test results and/or other measures used for purposes of accountability to determine the academic growth of students served.
Continued	*Continued*	*Continued*

ELEMENT 4. Evaluation and Monitoring

Details about the required responses in the written narrative are provided in Section III, Part C, Element 4.
Summary. The provider will monitor student academic improvement and other aspects of the SES program to make improvements needed to increase academic achievement. The provider will pre- and post-test according to the research-based program design, provide reports on student progress to students, parents, and LEAs, and will maintain data needed to demonstrate effectiveness.

ADVANCED	ADEQUATE	INADEQUATE
• The narrative provides advanced evidence of the applicant's ongoing program monitoring procedures for overall program effectiveness. • The narrative from the online provider includes advanced evidence about who monitors the students' online tutoring and academic work; who intervenes and how when a participating student is not successful with the online tutoring program; how and when student progress reports are prepared and made available to parents/guardians, schools, LEAs; and how student attendance and participation is collected, verified, and reported to contracting LEAs.	• The narrative provides adequate evidence of the applicant's ongoing program monitoring procedures for overall program effectiveness. • The narrative from the online provider includes adequate evidence about who monitors students' online tutoring and academic work; who intervenes and how when a participating student is not successful with the online tutoring program; how and when student progress reports are prepared and made available to parents/guardians, schools, LEAs; and how student attendance and participation is collected, verified, and reported to contracting LEAs.	• The narrative provides inadequate evidence of the applicant's ongoing program monitoring procedures for overall program effectiveness. • The narrative from the online provider includes inadequate evidence about who monitors students' online tutoring and academic work; who intervenes and how when a participating student is not successful with the online tutoring program; how and when student progress reports are prepared and made available to parents/guardians, schools, LEAs; and how student attendance and participation is collected, verified, and reported to contracting LEAs.

Elementary and Secondary Education Act

SEC. 1116. ACADEMIC ASSESSMENT AND LOCAL EDUCATIONAL AGENCY AND SCHOOL IMPROVEMENT.

(e) SUPPLEMENTAL EDUCATIONAL SERVICES-

(1) SUPPLEMENTAL EDUCATIONAL SERVICES– In the case of any school described in paragraph (5), (7), or (8) of subsection (b), the local educational agency serving such school shall, subject to this subsection, arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness, that is selected by the parents and approved for that purpose by the State educational agency in accordance with reasonable criteria, consistent with paragraph (5), that the State educational agency shall adopt.

(4) STATE EDUCATIONAL AGENCY RESPONSIBILITIES– A State educational agency shall--

(A) in consultation with local educational agencies, parents, teachers, and other interested members of the public, promote maximum participation by providers to ensure, to the extent practicable, that parents have as many choices as possible;

(B) develop and apply objective criteria, consistent with paragraph (5), to potential providers that are based on a demonstrated record of effectiveness in increasing the academic proficiency of students in subjects relevant to meeting the State academic content and student achievement standards adopted under section 1111(b)(1);

(C) maintain an updated list of approved providers across the State, by school district, from which parents may select;

(D) develop, implement, and publicly report on standards and techniques for monitoring the quality and effectiveness of the services offered by approved providers under this subsection, and for withdrawing approval from providers that fail, for 2 consecutive years, to contribute to increasing the academic proficiency of students served under this subsection as described in subparagraph (B); and

(E) provide annual notice to potential providers of supplemental educational services of the opportunity to provide services under this subsection and of the applicable procedures for obtaining approval from the State educational agency to be an approved provider of those services.

ITEM ADDENDUM

DATE: July 1, 2011

TO: MEMBERS, State Board of Education

FROM: TOM TORLAKSON, State Superintendent of Public Instruction

SUBJECT: Item 5—Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Additional Providers to the 2011–13 State Board of Education-Approved Supplemental Educational Services Provider List.

Summary of Key Issues

Attachment 2 is the 2011–13 Supplemental Educational Services Providers Application Summary based on the Request for Application that was re-released on May 4, 2011. The Summary provides information about the specific criteria for each application category and the number and percentage of applicants within each category.

Attachment 3 is the California Department of Education Recommended 2011–13 Supplemental Educational Services Provider Applicants that met the standard of adequate as defined in the State Board of Education (SBE) adopted rubric in all four program elements (Attachment 1).

Attachment 4 is the California Department of Education Recommended 2011–13 Local Educational Agencies Identified for Improvement or Corrective Action Supplemental Educational Services Provider Applicant List. These LEAs are eligible to apply based on the request for a waiver from the U.S. Department of Education (ED) of *Code of Federal Regulations* (*CFR*) Section 200.47(b)(1)(iv)(A) and (B), which currently prohibits LEAs identified for improvement or corrective action from serving as SES providers. The waiver is pending approval by the ED. Attachments 3 and 4 identify the content areas for which the applicant is authorized to provide service(s) as well as the specific populations it is authorized to serve, pending approval by the SBE.

Attachment 5 is the Academic Achievement Data for Local Educational Agencies Identified for Improvement or Corrective Action Recommended for Approval.

Attachment(s)

Attachment 2: 2011–13 Supplemental Educational Services Providers Application Summary (3 Pages)

Attachment 3: California Department of Education Recommended 2011–13 Supplemental Educational Services Provider Applicant List (5 Pages)

Attachment 4: California Department of Education Recommended 2011–13 Local Educational Agencies Identified for Improvement or Corrective Action Supplemental Educational Services Provider Applicant List (1 Page)

Attachment 5: Academic Achievement Data for Local Educational Agencies Identified for Improvement or Corrective Action Recommended for Approval (17 Pages)

2011–13 Supplemental Educational Services Providers Application Summary

The California Department of Education (CDE) received 159 applications for the Re-Released 2011 Supplemental Education Services (SES) providers' application period. The following is a summary of these applications.

Application Category	Criteria
Applications Recommended for Approval in the identified content area(s) and with specific population(s)	**75 (47% of 159)** The applicant met the standard of adequate in all four program elements: • Program Design • Staff and Resources • High Quality Research and Program Effectiveness • Evaluation and Monitoring
Incomplete or Late Applications or Applications that Failed to meet one or more of the Application Specifications	**20 (13% of 159)** • Did not provide electronic and hard copy of online profile with confirmation • Did not sign all pertinent assurances • Did not submit all four required elements in the narrative • Did not complete Template for Quality Verification of Testing Instrument • Did not submit sufficient supporting documentation; e.g., lack of proof of being legally constituted and qualified to do business in California and/or being fiscally sound to operate as a provider • Did not meet the submission deadline
Applications Not Recommended for Approval	**64 (40% of 159)** • Failed to describe an instructional program that meets the specifics identified in regulations • Failed to describe staffing, resources and monitoring as identified • Failed to provide a two-year record of academic effectiveness and/or provide sufficient evidence that their selected testing instrument meets the standards for validity and reliability • Failed to describe procedures for evaluation and monitoring of student progress, program effectiveness and LEA consultation • Identified as Program Improvement LEA for 2008–2009 or 2009–2010 • Did not provide 2009–2010 SES Accountability Report
Total	**159**

Cohort 11 2011–2013 Supplemental Educational Services Providers Window 1 Application Summary Including Results of Appeals

Appeals Received	**14 (6% of 249 Window 1 Applications)**
Appeals Recommended for Approval	**0 (0% of 14)**

CDE staff used the rubric approved by the State Board of Education (SBE) in January 2005 to evaluate the applications. Pending SBE approval of the July 2011 list of recommended providers, the CDE will post the list on the CDE SES Web page at http://www.cde.ca.gov/ta/ac/ti/supplemental.asp. Providers approved at the July 2011 meeting will be authorized to provide services from July 1, 2011, through June 30, 2013.

Distribution by Type of Provider

Type of Entity	2010 Approved for 2010–12 Service Period	2011 Approved in May for 2011–13 Service Period	2011 Recommended for Approval in July for 2011–13 Service Period	Total
Charter Schools (not in PI)	1	0	0	1
Community-Based	0	0	0	0
County Offices of Education	0	1	4	5
Faith-Based	1	0	1	2
For-Profit	54	121	37	212
Local Educational Agencies (not in PI)	8	3	0	11
Local Educational Agencies (in PI)	0	0	16	16
Non-Profit	21	30	13	64
Private School	0	1	0	1
Public Schools (not in PI)	1	0	0	1
Sole Proprietor	5	5	4	14
Total	**91**	**161**	**75**	**327**

California Department of Education Recommended 2011–13 Supplemental Educational Services Provider Applicants

Provider Name	English-Language Arts	Math	Science	EL	SWD	Online	Type of Entity
#1 A+ Student Learning Academy/Center	X	X		X	X		Faith-based entity
# 1 WE CAN - Querer es Poder (West East Community Access Network, Inc.)	X	X		X	X		Non-profit agency
1 2 3 MATH: Mathnasium (Woodland Hills Learning, Inc.)		X		X	X		For-profit agency
40 Acres and A Mind, Inc. , dba: Sylvan Learning – Bonita	X	X		X	X		For-profit agency
40 Acres and A Mind, Inc., dba: Sylvan Learning - La Mesa	X	X		X	X		For-profit agency
100% Learning Fun Center	X	X		X	X		For-profit agency
A Better Tomorrow Education	X	X		X	X		Sole Proprietorship
A Plus Tutorial Center (previously Seyedehmaryam Seyedroodbari)		X		X	X		For-profit agency
ABC Phonetic Reading School, Inc.	X			X	X		For-profit agency
Academic Achievement Inc.	X	X		X	X		For-profit agency
Ace It! Tutoring Powered by Sylvan operated by Knowledge Boost, LLC	X	X		X	X		For-profit agency

Provider Name	English-Language Arts	Math	Science	EL	SWD	Online	Type of Entity
Ace It! Tutoring Powered by Sylvan Learning (Zoglin, Inc.)	X						For-profit agency
African American Unity Center	X	X	X	X	X		Non-profit agency
After School Programs, Inc. dba: ASP	X	X		X	X		Non-profit agency
Alexandria Learning Academy	X	X		X	X		For-profit agency
Alpha! Innovation through Education	X	X		X	X		For-profit agency
Alpha Learning Centers (dba for Alpha Treatment Centers)	X	X		X			Non-profit agency
Alpha Tutoring Services	X	X		X	X		For-profit agency
American Center for Learning	X	X	X	X			For-profit agency
ARITHMETIC SOLUTIONS		X	X	X	X		For-profit agency
Arriba Education!	X	X		X	X		For-profit agency
B.E.L.L. Foundation, dba: BELL (Building Educated Leaders for Life Foundation)	X	X					Non-profit agency
Boys & Girls Clubs of Windsor, dba: Boys & Girls Clubs of Central Sonoma County	X	X		X			Non-profit agency
Brainfuse, Inc.	X	X		X		X	For-profit agency
Carney Educational Services	X	X		X	X		For-profit agency

Provider Name	English-Language Arts	Math	Science	EL	SWD	Online	Type of Entity
Datamatics, Inc. dba: Achieve HighPoints		X				X	For-profit agency
DND Learning, Inc. dba: Sylvan Learning of Visalia	X	X		X	X		For-profit agency
Educate Online Learning, LLC	X	X		X	X	X	For-profit agency
EduThink	X	X		X	X	X	Sole Proprietorship
Elohim Dream Builders, dba: Dream Builders Tutorial Center	X	X		X	X		Non-profit agency
First Nation Community Services, Inc. dba: Z & S Tutoring	X	X		X	X		Non-profit agency
Future Stars Tutoring Services Center	X	X		X	X		Sole Proprietorship
Global Partnership Schools	X	X		X	X		For-profit agency
Grades Up, LLC, dba: A+ Grades Up Tutoring	X	X		X	X		For-profit agency
ICES Education, LLC	X	X		X	X		For-profit agency
Kimberly and Associates, Inc., dba: Allright Reading and Writing Solutions	X			X	X		For-profit agency
KnowledgeQuest, Inc.	X	X		X	X		For-profit agency
Learn It Online, LLC (LION)	X	X		X	X	X	For-profit agency
Learning Foundation Services (LFS)	X	X		X	X		Sole Proprietorship

Provider Name	English-Language Arts	Math	Science	EL	SWD	Online	Type of Entity
Lecciones Educational Services, LLC	X	X		X	X		For-profit agency
Madera County Office of Ed.	X	X		X	X		Local Educational Agencies (not in PI)
Mathnasium LLC	X	X					For-profit agency
Milestones Family Learning Center	X	X	X	X	X	X	Non-profit agency
Napa County Office of Ed.	X			X	X		Local Educational Agencies (not in PI)
New Vision Partners	X			X	X		Non-profit agency
One Hundred Percent Computer Learning	X	X		X	X		Non-profit agency
One More Chance Family Outreach Services, Inc.	X	X		X	X		For-profit agency
Placer County Office of Ed.	X	X		X	X		Local Educational Agencies (not in PI)
Preferred Choice	X	X		X	X		For-profit agency
Project IMPACT	X	X		X	X		Non-profit agency
STAR Inc. (STAR Education)	X	X		X	X		Non-profit agency
SurferMath		X		X	X		For-profit agency
Sylvan Learning Center of Laguna Niguel operated by Knowledge Boost, LLC	X	X					For-profit agency

Provider Name	English-Language Arts	Math	Science	EL	SWD	Online	Type of Entity
Sylvan Learning Center of Mira Mesa operated by Knowledge Boost, LLC	X	X					For-profit agency
Sylvan Learning Center of Oceanside operated by Knowledge Boost, LLC	X	X		X	X	X	For-profit agency
Sylvan Learning Center of Rancho Bernardo operated by Knowledge Boost, LLC	X	X					For-profit agency
Tulare County Office of Ed.	X	X	X	X	X		Local Educational Agencies (not in PI)
Tutors & More Inc.	X	X		X	X		For-profit agency
VanMorgan Learaning Systems, Inc., dba: Corona-Norco Tutoring Club	X	X		X	X		For-profit agency

California Department of Education Recommended 2011–13 Local Educational Agencies Identified for Improvement or Corrective Action Supplemental Educational Services Provider Applicant List

Local Educational Agencies	English-Language Arts	Math	Science	EL	SWD	Year Identified for Improvement	Corrective Action
Antioch Unified	X	X		X	X	2008-09	X
Baldwin Park Unified	X	X		X	X	2008-09	X
Capistrano Unified	X	X	X	X	X	2010-11	
Dixon Unified	X	X		X	X	2008-09	X
Fresno Unified	X	X		X	X	2004-05	X
Garden Grove Unified	X	X		X	X	2008-09	X
Hanford Elementary	X			X	X	2004-05	X
Lodi Unified	X			X	X	2004-05	X
Red Bluff Union Elementary	X		X	X	X	2006-07	X
Roseland Elementary	X		X	X	X	2006-07	X
San Bernardino City Unified	X	X		X	X	2004-05	X
San Juan Unified	X	X		X	Y	2008-09	X
Santa Ana Unified	X		X	X	X	2004-05	X
Shasta County Office of Ed.	X		X	X	X	2010-11	
Today's Fresh Charter School	X	X				2008-09	
Twin Rivers Unified	X	X	X	X	X	2010-11	X

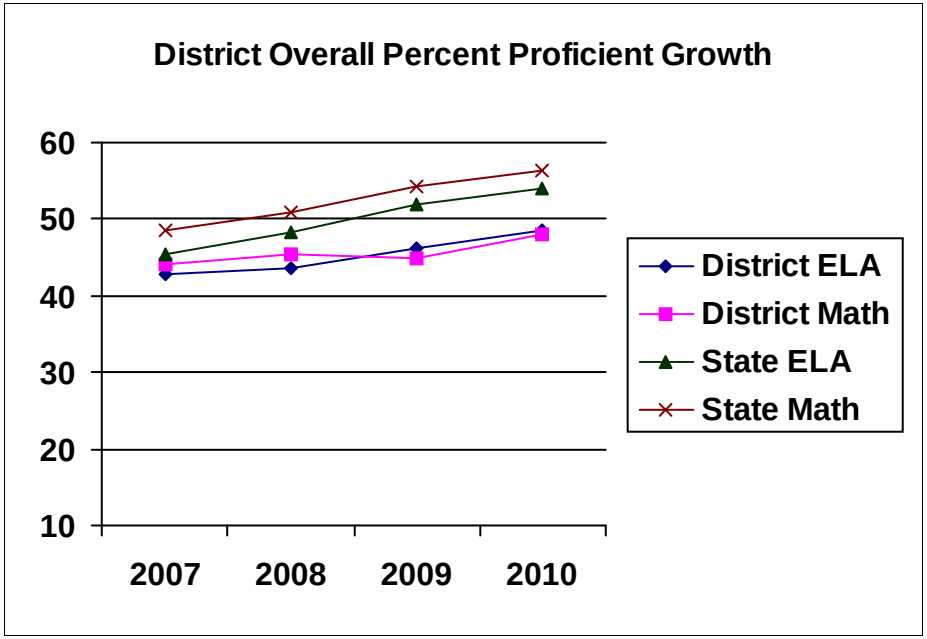
Academic Achievement Data for Local Educational Agencies Identified for Improvement or Corrective Action Recommended for Approval

2009-10 District Accountability Dashboard

CD: 0761648 **County:** Contra Costa **District:** Antioch Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	42.9	45.5	44.2	48.5	48.5	53.9	47.9	56.3	5.6	8.4	3.7	7.8
Black/African American	29.6	32.7	28.3	31.1	35.7	41.3	32.7	39.6	6.1	8.6	4.4	8.5
American Indian/Alaska Native	36.3	40.6	46.0	40.9	41.2	46.7	44.8	46.9	4.9	6.1	-1.2	6.0
Asian	53.7	68.9	61.3	76.6	64.9	76.8	67.3	82.5	11.2	7.9	6.0	5.9
Filipino	58.5	63.0	60.1	65.6	69.6	71.5	69.6	72.0	11.1	8.5	9.5	6.4
Hispanic	33.8	31.1	38.4	37.0	43.0	41.7	45.0	46.7	9.2	10.6	6.6	9.7
Native Hawaiian/Pacific Islander	41.4	43.4	45.4	47.0	39.4	50.7	47.1	53.1	-2.0	7.3	1.7	6.1
White	55.6	64.3	54.2	62.8	61.3	70.9	58.0	69.0	5.7	6.6	3.8	6.2
Socioeconomically Disadvantaged	28.5	30.4	34.7	36.7	38.5	41.1	40.1	46.3	10.0	10.7	5.4	9.6
English Learners	24.9	25.8	35.0	35.8	31.1	35.6	39.4	45.6	6.2	9.8	4.4	9.8
Students with Disabilities	18.5	20.7	20.3	24.1	28.2	31.8	31.9	34.5	9.7	11.1	11.6	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2008-2009

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	7	7	7	2	2	0	0	3
Middle	2	2	2	0	0	0	0	2
High	1	1	1	0	0	0	1	0
Total	10	10	10	2	2	0	1	5

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	10	3	0	0	4	1	2	5
Middle	0	1	0	0	1	1	1	1
High	4	0	0	3	0	1	0	2
Total	14	4	0	3	5	3	3	8

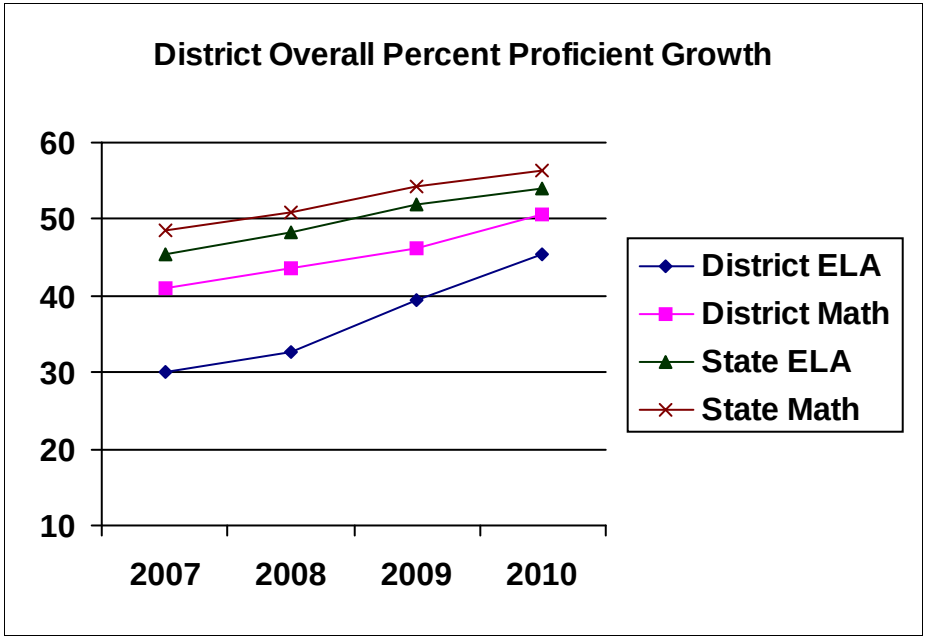
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 1964287 **County:** Los Angeles **District:** Baldwin Park Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	30.0	45.5	41.0	48.5	45.3	53.9	50.7	56.3	15.3	8.4	9.7	7.8
Black/African American	29.6	32.7	32.4	31.1	49.3	41.3	39.1	39.6	19.7	8.6	6.7	8.5
American Indian/Alaska Native	14.3	40.6	35.7	40.9		46.7		46.9		6.1		6.0
Asian	65.8	68.9	78.5	76.6	75.8	76.8	84.9	82.5	10.0	7.9	6.4	5.9
Filipino	50.2	63.0	61.2	65.6	66.8	71.5	69.4	72.0	16.6	8.5	8.2	6.4
Hispanic	27.9	31.1	38.9	37.0	43.4	41.7	48.7	46.7	15.5	10.6	9.8	9.7
Native Hawaiian/Pacific Islander		43.4		47.0		50.7		53.1		7.3		6.1
White	38.3	64.3	48.1	62.8	51.7	70.9	56.9	69.0	13.4	6.6	8.8	6.2
Socioeconomically Disadvantaged	27.3	30.4	39.4	36.7	43.1	41.1	49.1	46.3	15.8	10.7	9.7	9.6
English Learners	19.5	25.8	33.4	35.8	38.5	35.6	47.0	45.6	19.0	9.8	13.6	9.8
Students with Disabilities	15.1	20.7	22.8	24.1	30.7	31.8	35.1	34.5	15.6	11.1	12.3	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2008-2009

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	13	13	10	0	2	3	2	3
Middle	4	4	4	0	0	1	0	3
High	3	3	2	0	2	0	0	0
Total	20	20	16	0	4	4	2	6

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	2	2	6	4	2	7	9	10
Middle	0	1	0	0	1	2	4	3
High	0	1	2	1	3	1	1	0
Total	2	4	8	5	6	10	14	13

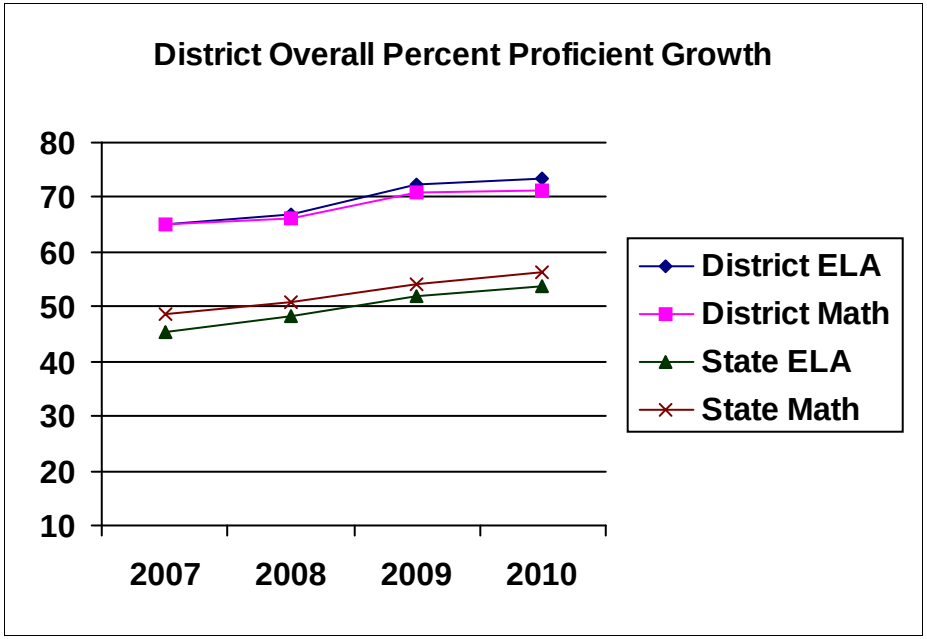
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 3066464 **County:** Orange **District:** Capistrano Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	64.9	45.5	64.9	48.5	73.4	53.9	71.2	56.3	8.5	8.4	6.3	7.8
Black/African American	54.5	32.7	47.4	31.1	62.7	41.3	54.0	39.6	8.2	8.6	6.6	8.5
American Indian/Alaska Native	62.6	40.6	58.1	40.9	62.4	46.7	57.3	46.9	-0.2	6.1	-0.8	6.0
Asian	82.0	68.9	86.6	76.6	89.3	76.8	90.9	82.5	7.3	7.9	4.3	5.9
Filipino	73.8	63.0	75.0	65.6	77.9	71.5	79.6	72.0	4.1	8.5	4.6	6.4
Hispanic	35.5	31.1	40.2	37.0	50.6	41.7	51.6	46.7	15.1	10.6	11.4	9.7
Native Hawaiian/Pacific Islander	71.9	43.4	68.8	47.0	75.0	50.7	65.9	53.1	3.1	7.3	-2.9	6.1
White	71.5	64.3	70.1	62.8	80.3	70.9	76.7	69.0	8.8	6.6	6.6	6.2
Socioeconomically Disadvantaged	31.5	30.4	36.3	36.7	46.0	41.1	48.3	46.3	14.5	10.7	12.0	9.6
English Learners	30.1	25.8	38.1	35.8	38.0	35.6	44.4	45.6	7.9	9.8	6.3	9.8
Students with Disabilities	31.7	20.7	34.3	24.1	39.4	31.8	35.8	34.5	7.7	11.1	1.5	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2010-2011

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	5	5	3	1	0	0	0	2
Middle	1	1	0	0	0	0	0	0
High	1	1	0	0	0	0	0	0
Total	7	7	3	1	0	0	0	2

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	32	28	31	19	28	27	31	24
Middle	9	6	6	7	7	6	8	8
High	6	4	3	5	1	2	3	1
Total	47	38	40	31	36	35	42	33

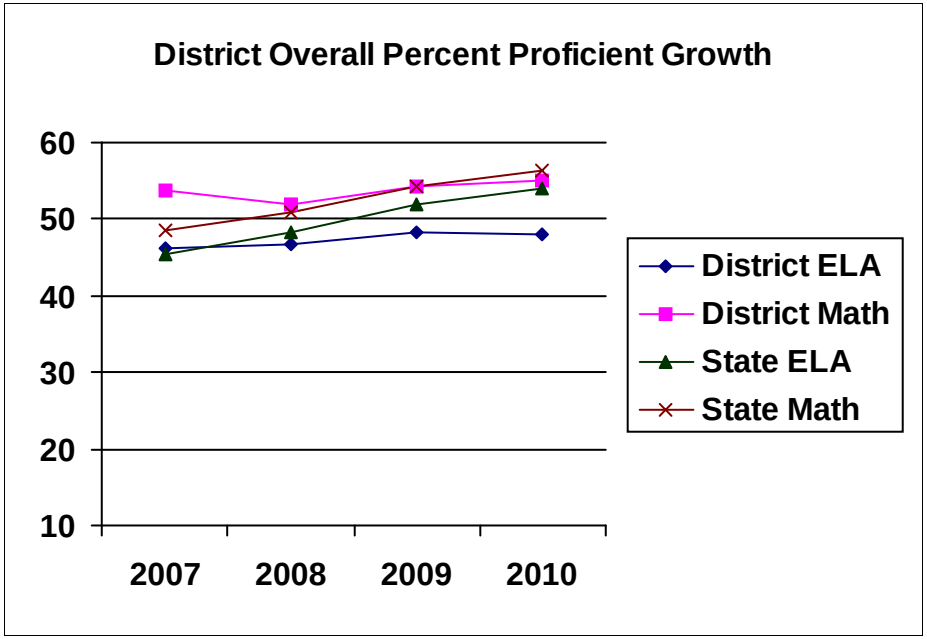
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 4870532 **County:** Solano **District:** Dixon Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	46.2	45.5	53.8	48.5	48.0	53.9	55.1	56.3	1.8	8.4	1.3	7.8
Black/African American	37.5	32.7	38.3	31.1	38.0	41.3	28.2	39.6	0.5	8.6	-10.1	8.5
American Indian/Alaska Native	41.7	40.6	66.7	40.9		46.7		46.9		6.1		6.0
Asian	63.8	68.9	68.1	76.6	53.1	76.8	75.0	82.5	-10.7	7.9	6.9	5.9
Filipino	58.5	63.0	68.3	65.6	59.4	71.5	65.6	72.0	0.9	8.5	-2.7	6.4
Hispanic	30.5	31.1	44.2	37.0	36.6	41.7	44.9	46.7	6.1	10.6	0.7	9.7
Native Hawaiian/Pacific Islander	40.0	43.4	40.0	47.0		50.7		53.1		7.3		6.1
White	62.1	64.3	63.8	62.8	61.2	70.9	68.6	69.0	-0.9	6.6	4.8	6.2
Socioeconomically Disadvantaged	27.7	30.4	41.2	36.7	33.0	41.1	42.1	46.3	5.3	10.7	0.9	9.6
English Learners	26.6	25.8	41.6	35.8	30.1	35.6	40.9	45.6	3.5	9.8	-0.7	9.8
Students with Disabilities	14.9	20.7	22.1	24.1	17.5	31.8	25.8	34.5	2.6	11.1	3.7	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2008-2009

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	2	2	2	0	0	0	0	2
Middle	1	1	1	0	1	0	0	0
High	0	0	0	0	0	0	0	0
Total	3	3	3	0	1	0	0	2

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	4	1	3	0	1	0	1	0
Middle	1	0	0	0	1	0	0	1
High	1	0	0	3	0	0	0	1
Total	6	1	3	3	2	0	1	2

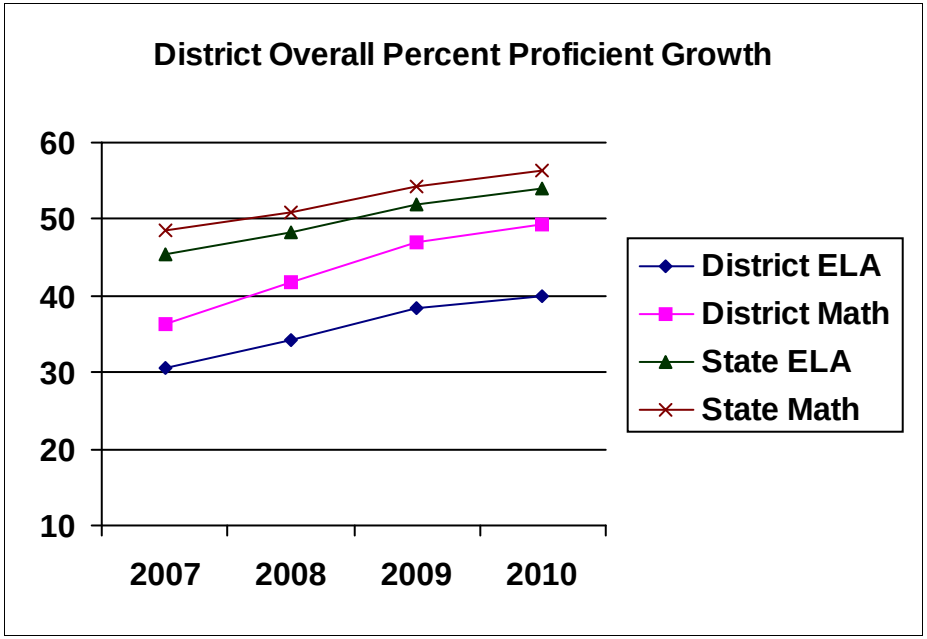
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 1062166 **County:** Fresno **District:** Fresno Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	30.7	45.5	36.3	48.5	40.0	53.9	49.3	56.3	9.3	8.4	13.0	7.8
Black/African American	25.8	32.7	26.0	31.1	33.5	41.3	38.1	39.6	7.7	8.6	12.1	8.5
American Indian/Alaska Native	32.1	40.6	36.7	40.9	38.4	46.7	45.4	46.9	6.3	6.1	8.7	6.0
Asian	26.1	68.9	41.7	76.6	38.9	76.8	58.2	82.5	12.8	7.9	16.5	5.9
Filipino	57.0	63.0	62.4	65.6	72.6	71.5	73.2	72.0	15.6	8.5	10.8	6.4
Hispanic	26.3	31.1	32.0	37.0	36.4	41.7	46.1	46.7	10.1	10.6	14.1	9.7
Native Hawaiian/Pacific Islander	49.6	43.4	54.8	47.0	55.8	50.7	64.8	53.1	6.2	7.3	10.0	6.1
White	55.6	64.3	54.7	62.8	63.1	70.9	64.3	69.0	7.5	6.6	9.6	6.2
Socioeconomically Disadvantaged	25.4	30.4	32.2	36.7	36.1	41.1	46.8	46.3	10.7	10.7	14.6	9.6
English Learners	18.5	25.8	30.6	35.8	29.5	35.6	46.2	45.6	11.0	9.8	15.6	9.8
Students with Disabilities	11.1	20.7	14.8	24.1	24.5	31.8	29.0	34.5	13.4	11.1	14.2	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2004-2005

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	63	63	40	5	4	1	0	30
Middle	15	15	10	0	0	0	0	10
High	13	13	10	1	1	1	1	6
Total	91	91	60	6	5	2	1	46

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	28	19	32	16	28	43	42	36
Middle	3	3	2	2	2	6	8	5
High	9	5	2	4	2	2	1	3
Total	40	27	36	22	32	51	51	44

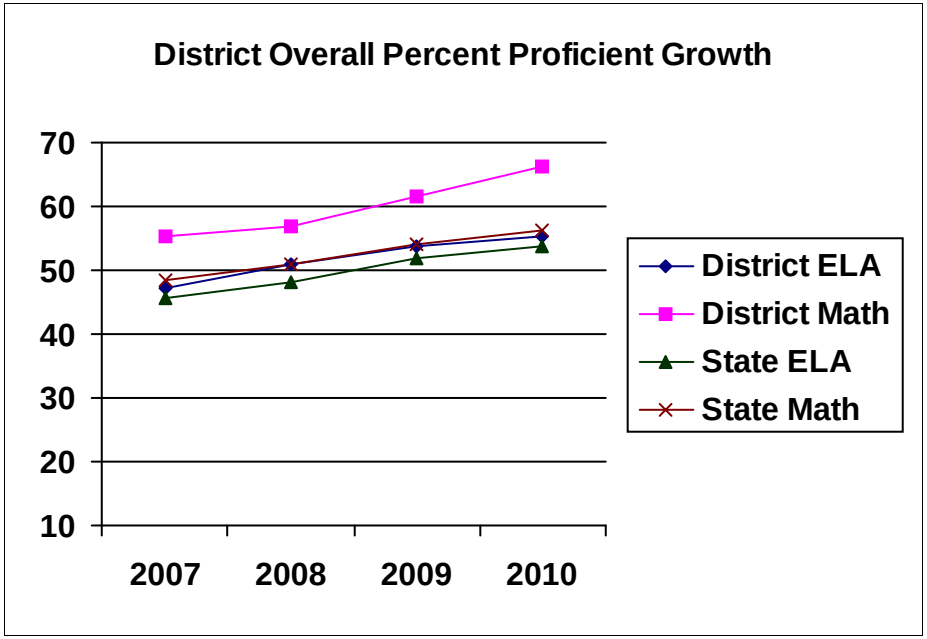
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 3066522 **County:** Orange **District:** Garden Grove Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	47.3	45.5	55.3	48.5	55.4	53.9	66.3	56.3	8.1	8.4	11.0	7.8
Black/African American	41.2	32.7	41.9	31.1	54.1	41.3	58.4	39.6	12.9	8.6	16.5	8.5
American Indian/Alaska Native	45.2	40.6	48.4	40.9	55.8	46.7	67.3	46.9	10.6	6.1	18.9	6.0
Asian	67.4	68.9	78.8	76.6	76.0	76.8	86.7	82.5	8.6	7.9	7.9	5.9
Filipino	67.0	63.0	73.9	65.6	75.5	71.5	78.9	72.0	8.5	8.5	5.0	6.4
Hispanic	32.7	31.1	40.6	37.0	40.5	41.7	53.4	46.7	7.8	10.6	12.8	9.7
Native Hawaiian/Pacific Islander	37.5	43.4	46.3	47.0	47.9	50.7	56.8	53.1	10.4	7.3	10.5	6.1
White	60.6	64.3	62.4	62.8	68.1	70.9	71.7	69.0	7.5	6.6	9.3	6.2
Socioeconomically Disadvantaged	40.4	30.4	49.7	36.7	48.1	41.1	61.8	46.3	7.7	10.7	12.1	9.6
English Learners	41.5	25.8	52.6	35.8	46.3	35.6	62.2	45.6	4.8	9.8	9.6	9.8
Students with Disabilities	19.7	20.7	26.4	24.1	32.4	31.8	43.4	34.5	12.7	11.1	17.0	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2008-2009

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	42	42	19	6	8	4	1	0
Middle	10	10	6	2	4	0	0	0
High	9	9	6	6	0	0	0	0
Total	61	61	31	14	12	4	1	0

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	44	20	25	14	20	26	34	32
Middle	10	3	4	1	3	1	7	4
High	10	9	4	3	3	0	2	3
Total	64	32	33	18	26	27	43	39

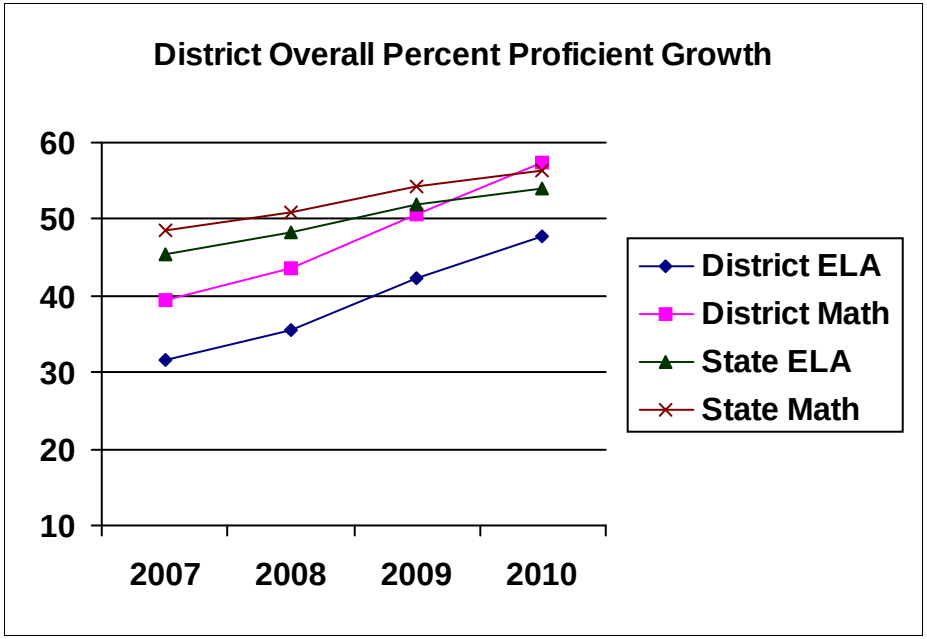
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 1663917 **County:** Kings **District:** Hanford Elementary **District Type:** Elementary

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	31.6	45.5	39.4	48.5	47.7	53.9	57.4	56.3	16.1	8.4	18.0	7.8
Black/African American	29.2	32.7	37.2	31.1	44.6	41.3	50.0	39.6	15.4	8.6	12.8	8.5
American Indian/Alaska Native	19.0	40.6	20.0	40.9	42.1	46.7	52.6	46.9	23.1	6.1	32.6	6.0
Asian	59.2	68.9	64.8	76.6	73.8	76.8	85.2	82.5	14.6	7.9	20.4	5.9
Filipino	67.2	63.0	72.4	65.6	77.1	71.5	83.3	72.0	9.9	8.5	10.9	6.4
Hispanic	25.3	31.1	34.2	37.0	42.1	41.7	54.0	46.7	16.8	10.6	19.8	9.7
Native Hawaiian/Pacific Islander		43.4		47.0		50.7		53.1		7.3		6.1
White	44.2	64.3	49.7	62.8	62.0	70.9	66.9	69.0	17.8	6.6	17.2	6.2
Socioeconomically Disadvantaged	24.7	30.4	33.5	36.7	42.3	41.1	53.4	46.3	17.6	10.7	19.9	9.6
English Learners	18.0	25.8	28.9	35.8	36.0	35.6	51.2	45.6	18.0	9.8	22.3	9.8
Students with Disabilities	13.5	20.7	20.8	24.1	35.7	31.8	42.3	34.5	22.2	11.1	21.5	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2004-2005

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	9	9	4	0	2	1	0	1
Middle	2	2	2	0	1	1	0	0
Total	11	11	6	0	3	2	0	1

Number of Schools That Made AYP and Academic Perfromance Index (API)

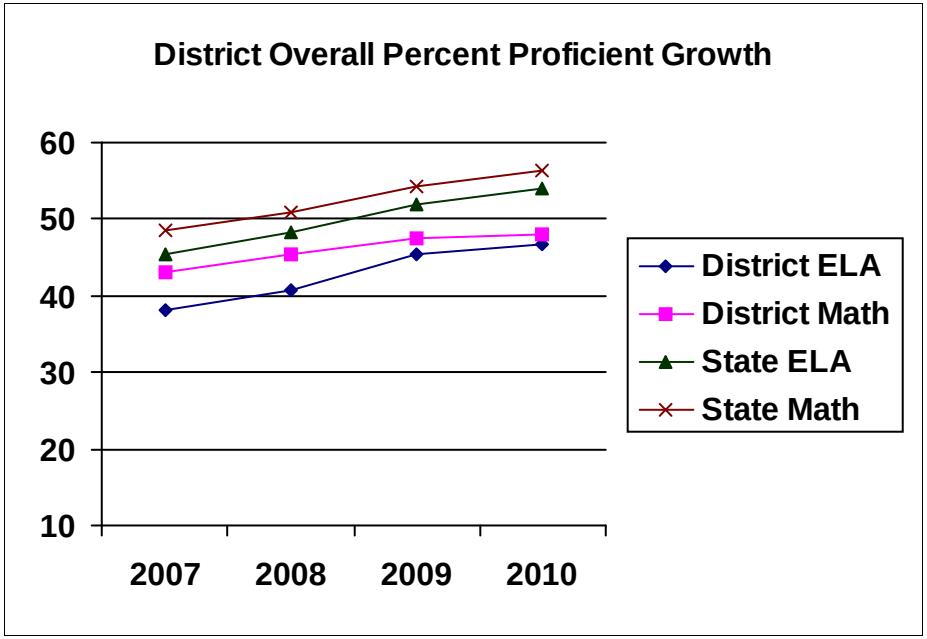
School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	4	2	5	5	2	3	5	7
Middle	1	0	0	0	0	1	2	2
High	0	0	0	0	0	0	0	0
Total	5	2	5	5	2	4	7	9

2009-10 District Accountability Dashboard

CD: 3968585 **County:** San Joaquin **District:** Lodi Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	38.0	45.5	43.2	48.5	46.6	53.9	47.9	56.3	8.6	8.4	4.7	7.8
Black/African American	26.7	32.7	28.1	31.1	33.2	41.3	29.4	39.6	6.5	8.6	1.3	8.5
American Indian/Alaska Native	46.5	40.6	46.4	40.9	41.2	46.7	49.1	46.9	-5.3	6.1	2.7	6.0
Asian	37.7	68.9	48.6	76.6	50.2	76.8	55.8	82.5	12.5	7.9	7.2	5.9
Filipino	52.4	63.0	57.7	65.6	61.6	71.5	62.4	72.0	9.2	8.5	4.7	6.4
Hispanic	27.4	31.1	34.6	37.0	36.7	41.7	39.8	46.7	9.3	10.6	5.2	9.7
Native Hawaiian/Pacific Islander	34.7	43.4	40.7	47.0	41.8	50.7	41.8	53.1	7.1	7.3	1.1	6.1
White	52.4	64.3	53.0	62.8	60.6	70.9	57.9	69.0	8.2	6.6	4.9	6.2
Socioeconomically Disadvantaged	26.8	30.4	35.2	36.7	37.6	41.1	40.8	46.3	10.8	10.7	5.6	9.6
English Learners	24.2	25.8	35.4	35.8	31.5	35.6	39.6	45.6	7.3	9.8	4.2	9.8
Students with Disabilities	17.4	20.7	23.7	24.1	27.7	31.8	30.7	34.5	10.3	11.1	7.0	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2004-2005

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	14	14	11	0	0	0	2	9
Middle	0	0	0	0	0	0	0	0
High	0	0	0	0	0	0	0	0
Total	14	14	11	0	0	0	2	9

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	20	11	12	9	16	14	12	15
Middle	1	1	1	1	3	2	2	3
High	3	2	1	1	4	1	1	2
Total	24	14	14	11	23	17	15	20

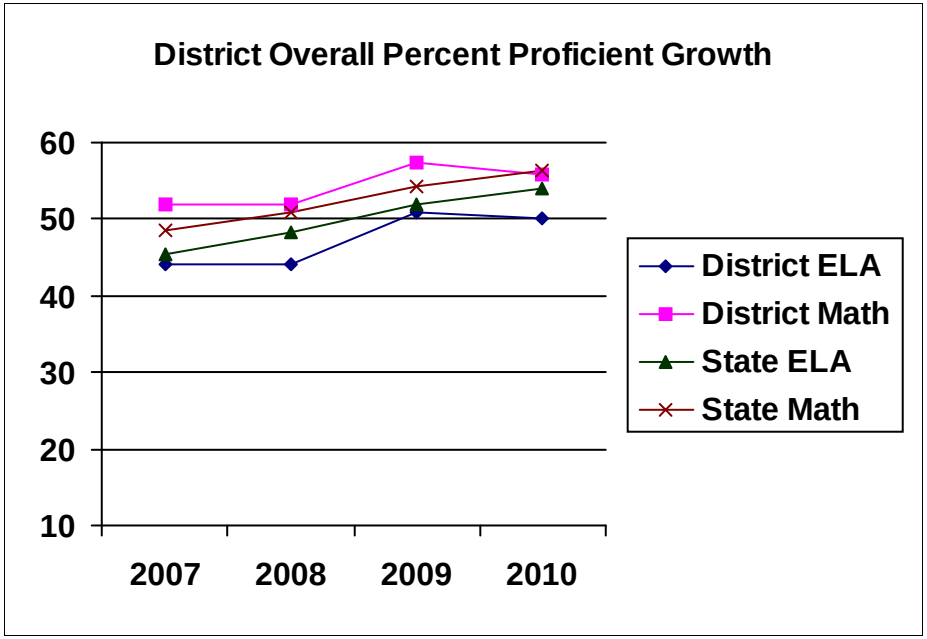
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 5271621 **County:** Tehama **District:** Red Bluff Union Elementary **District Type:** Elementary

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	44.1	45.5	52.0	48.5	50.1	53.9	55.8	56.3	6.0	8.4	3.8	7.8
Black/African American	53.8	32.7	61.5	31.1	52.9	41.3	47.1	39.6	-0.9	8.6	-14.4	8.5
American Indian/Alaska Native	31.8	40.6	47.7	40.9	51.6	46.7	61.3	46.9	19.8	6.1	13.6	6.0
Asian	50.0	68.9	75.0	76.6	18.2	76.8	45.5	82.5	-31.8	7.9	-29.5	5.9
Filipino		63.0		65.6		71.5		72.0		8.5		6.4
Hispanic	29.2	31.1	40.0	37.0	40.2	41.7	47.6	46.7	11.0	10.6	7.6	9.7
Native Hawaiian/Pacific Islander		43.4		47.0		50.7		53.1		7.3		6.1
White	49.2	64.3	56.0	62.8	55.2	70.9	59.5	69.0	6.0	6.6	3.5	6.2
Socioeconomically Disadvantaged	35.6	30.4	44.0	36.7	43.6	41.1	48.7	46.3	8.0	10.7	4.7	9.6
English Learners	21.9	25.8	33.9	35.8	32.2	35.6	42.1	45.6	10.3	9.8	8.2	9.8
Students with Disabilities	13.4	20.7	20.4	24.1	38.7	31.8	36.2	34.5	25.3	11.1	15.8	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2006-2007

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	3	3	1	0	0	0	1	0
Middle	1	1	1	0	0	0	0	1
Total	4	4	2	0	0	0	1	1

Number of Schools That Made AYP and Academic Perfromance Index (API)

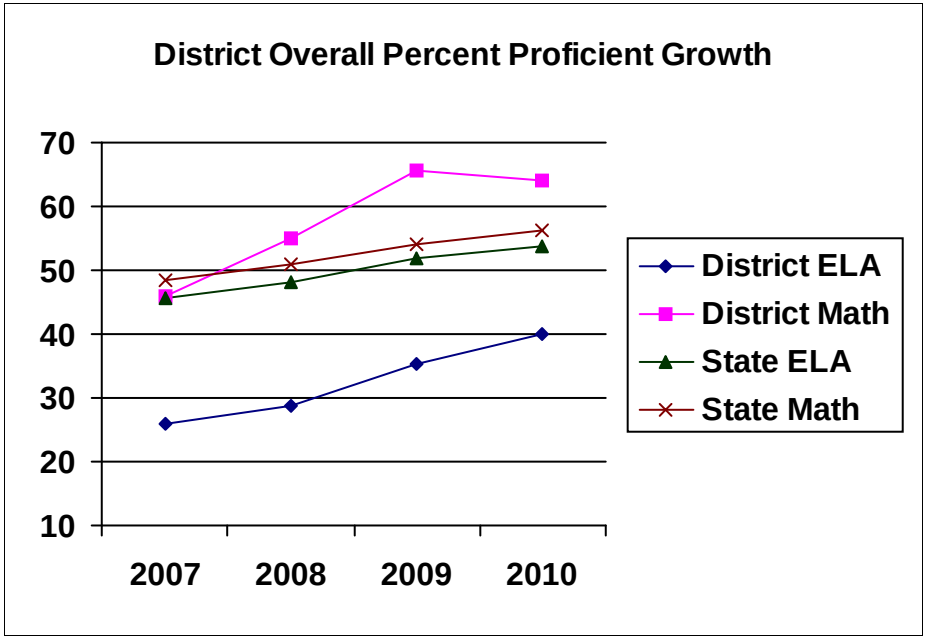
School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	3	2	3	1	2	2	3	1
Middle	2	1	1	1	1	0	1	0
High	0	0	0	0	0	0	0	0
Total	5	3	4	2	3	2	4	1

2009-10 District Accountability Dashboard

CD: 4970904 **County:** Sonoma **District:** Roseland Elementary **District Type:** Elementary

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	26.0	45.5	46.0	48.5	40.0	53.9	64.0	56.3	14.0	8.4	18.0	7.8
Black/African American	53.8	32.7	46.2	31.1	64.3	41.3	57.1	39.6	10.5	8.6	10.9	8.5
American Indian/Alaska Native	25.0	40.6	43.8	40.9	33.3	46.7	38.9	46.9	8.3	6.1	-4.9	6.0
Asian	51.5	68.9	72.7	76.6	40.0	76.8	72.0	82.5	-11.5	7.9	-0.7	5.9
Filipino		63.0		65.6		71.5		72.0		8.5		6.4
Hispanic	23.1	31.1	44.5	37.0	38.9	41.7	64.7	46.7	15.8	10.6	20.2	9.7
Native Hawaiian/Pacific Islander		43.4		47.0		50.7		53.1		7.3		6.1
White	36.2	64.3	46.8	62.8	57.9	70.9	56.8	69.0	21.7	6.6	10.0	6.2
Socioeconomically Disadvantaged	24.7	30.4	45.7	36.7	38.5	41.1	63.3	46.3	13.8	10.7	17.6	9.6
English Learners	22.8	25.8	44.5	35.8	36.5	35.6	64.0	45.6	13.7	9.8	19.5	9.8
Students with Disabilities	8.4	20.7	25.3	24.1	28.7	31.8	43.9	34.5	20.3	11.1	18.6	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2006-2007

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	2	2	1	0	0	0	1	0
Total	2	2	1	0	0	0	1	0

Number of Schools That Made AYP and Academic Perfromance Index (API)

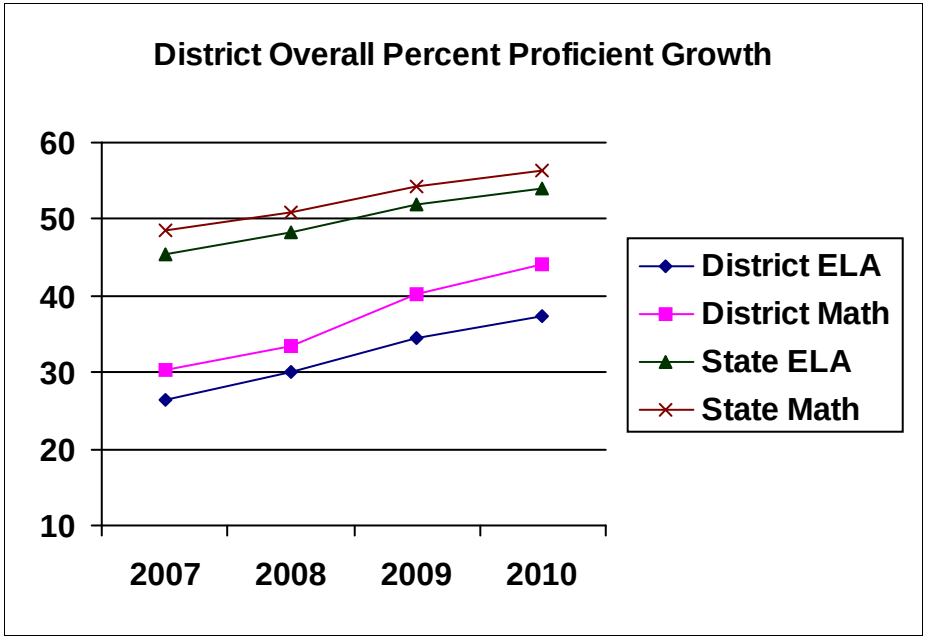
School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	1	0	2	1	1	2	2	1
Middle	0	0	0	0	0	0	0	0
High	0	0	0	0	0	0	0	0
Total	1	0	2	1	1	2	2	1

2009-10 District Accountability Dashboard

CD: 3667876 **County:** San Bernardino **District:** San Bernardino City Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	26.3	45.5	30.4	48.5	37.4	53.9	44.0	56.3	11.1	8.4	13.6	7.8
Black/African American	22.9	32.7	23.4	31.1	33.9	41.3	35.4	39.6	11.0	8.6	12.0	8.5
American Indian/Alaska Native	34.3	40.6	34.6	40.9	39.5	46.7	44.3	46.9	5.2	6.1	9.7	6.0
Asian	44.8	68.9	53.5	76.6	57.3	76.8	69.8	82.5	12.5	7.9	16.3	5.9
Filipino	59.2	63.0	60.8	65.6	65.5	71.5	65.7	72.0	6.3	8.5	4.9	6.4
Hispanic	23.2	31.1	28.9	37.0	34.9	41.7	43.3	46.7	11.7	10.6	14.4	9.7
Native Hawaiian/Pacific Islander	30.3	43.4	30.3	47.0	34.7	50.7	40.0	53.1	4.4	7.3	9.7	6.1
White	43.8	64.3	42.7	62.8	55.5	70.9	57.2	69.0	11.7	6.6	14.5	6.2
Socioeconomically Disadvantaged	22.5	30.4	27.6	36.7	34.9	41.1	42.3	46.3	12.4	10.7	14.7	9.6
English Learners	18.7	25.8	27.2	35.8	30.7	35.6	42.5	45.6	12.0	9.8	15.3	9.8
Students with Disabilities	11.0	20.7	14.0	24.1	25.5	31.8	28.9	34.5	14.5	11.1	14.9	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2004-2005

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	45	45	29	2	2	1	2	22
Middle	10	10	6	0	0	0	1	5
High	9	9	6	1	0	1	0	4
Total	64	64	41	3	2	2	3	31

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	15	10	15	13	17	27	28	30
Middle	1	1	1	2	1	4	2	7
High	3	4	2	1	2	2	2	2
Total	19	15	18	16	20	33	32	39

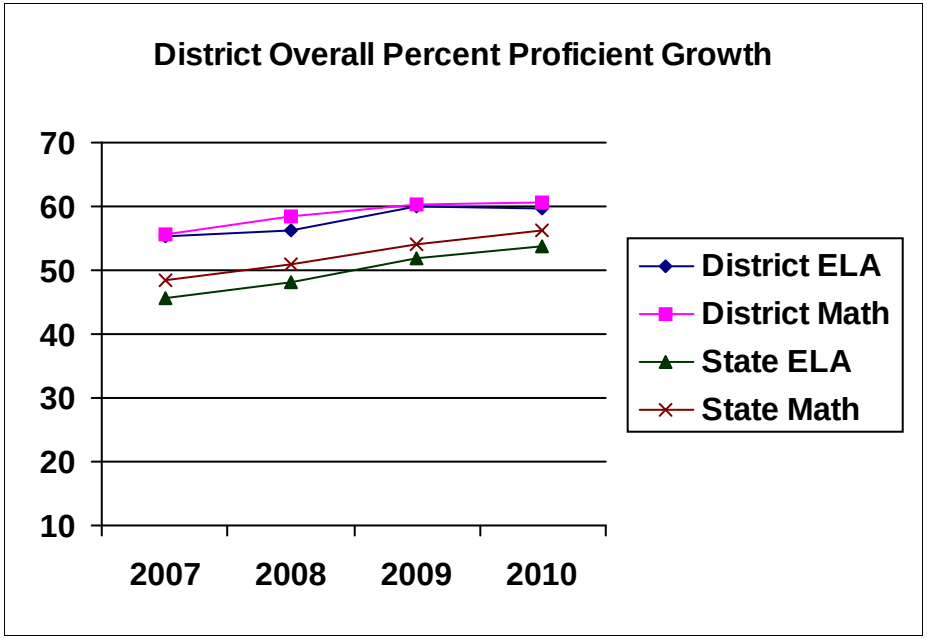
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 3467447 **County:** Sacramento **District:** San Juan Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	55.3	45.5	55.5	48.5	59.8	53.9	60.6	56.3	4.5	8.4	5.1	7.8
Black/African American	34.2	32.7	34.4	31.1	39.0	41.3	38.7	39.6	4.8	8.6	4.3	8.5
American Indian/Alaska Native	51.5	40.6	50.0	40.9	56.1	46.7	58.3	46.9	4.6	6.1	8.3	6.0
Asian	72.3	68.9	76.4	76.6	78.5	76.8	82.1	82.5	6.2	7.9	5.7	5.9
Filipino	64.6	63.0	64.2	65.6	68.6	71.5	65.6	72.0	4.0	8.5	1.4	6.4
Hispanic	36.4	31.1	39.2	37.0	40.9	41.7	45.6	46.7	4.5	10.6	6.4	9.7
Native Hawaiian/Pacific Islander	49.3	43.4	54.1	47.0	49.8	50.7	50.9	53.1	0.5	7.3	-3.2	6.1
White	60.5	64.3	59.9	62.8	65.8	70.9	65.6	69.0	5.3	6.6	5.7	6.2
Socioeconomically Disadvantaged	35.7	30.4	40.4	36.7	42.7	41.1	46.9	46.3	7.0	10.7	6.5	9.6
English Learners	25.4	25.8	38.2	35.8	34.0	35.6	47.0	45.6	8.6	9.8	8.8	9.8
Students with Disabilities	22.3	20.7	24.9	24.1	32.7	31.8	32.9	34.5	10.4	11.1	8.0	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2008-2009

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	12	12	8	3	0	0	2	3
Middle	2	2	2	0	0	0	0	2
High	7	7	1	0	1	0	0	0
Total	21	21	11	3	1	0	2	5

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	36	33	27	17	20	22	28	21
Middle	6	3	3	1	4	3	3	4
High	14	9	8	8	4	2	2	2
Total	56	45	38	26	28	27	33	27

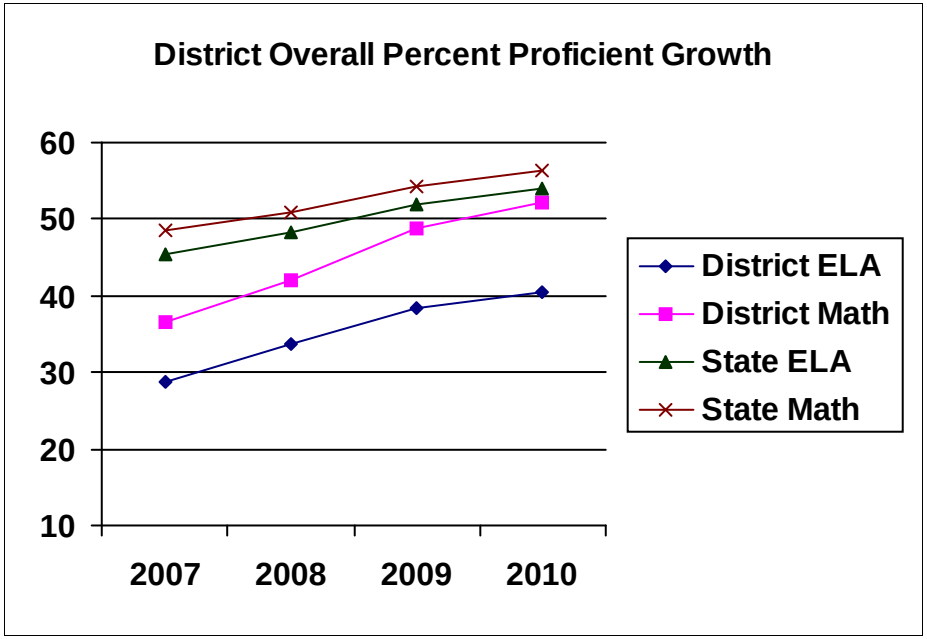
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 3066670 **County:** Orange **District:** Santa Ana Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	28.7	45.5	36.6	48.5	40.5	53.9	52.2	56.3	11.8	8.4	15.6	7.8
Black/African American	41.8	32.7	42.1	31.1	61.4	41.3	60.2	39.6	19.6	8.6	18.1	8.5
American Indian/Alaska Native	10.0	40.6	25.0	40.9		46.7		46.9		6.1		6.0
Asian	62.1	68.9	70.6	76.6	74.2	76.8	81.6	82.5	12.1	7.9	11.0	5.9
Filipino	61.8	63.0	57.4	65.6	67.7	71.5	76.9	72.0	5.9	8.5	19.5	6.4
Hispanic	27.0	31.1	35.0	37.0	39.0	41.7	51.1	46.7	12.0	10.6	16.1	9.7
Native Hawaiian/Pacific Islander	40.0	43.4	51.3	47.0	42.5	50.7	48.7	53.1	2.5	7.3	-2.6	6.1
White	59.7	64.3	58.4	62.8	69.2	70.9	67.4	69.0	9.5	6.6	9.0	6.2
Socioeconomically Disadvantaged	25.9	30.4	34.6	36.7	38.3	41.1	50.8	46.3	12.4	10.7	16.2	9.6
English Learners	20.6	25.8	31.0	35.8	32.2	35.6	47.5	45.6	11.6	9.8	16.5	9.8
Students with Disabilities	12.7	20.7	18.0	24.1	21.9	31.8	29.1	34.5	9.2	11.1	11.1	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2004-2005

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	35	35	20	1	2	0	0	17
Middle	9	9	9	1	1	0	0	7
High	10	10	7	0	0	1	3	3
Total	54	54	36	2	3	1	3	27

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	13	16	22	11	24	30	32	26
Middle	2	2	0	0	0	6	3	5
High	2	3	4	1	2	1	3	2
Total	17	21	26	12	26	37	38	33

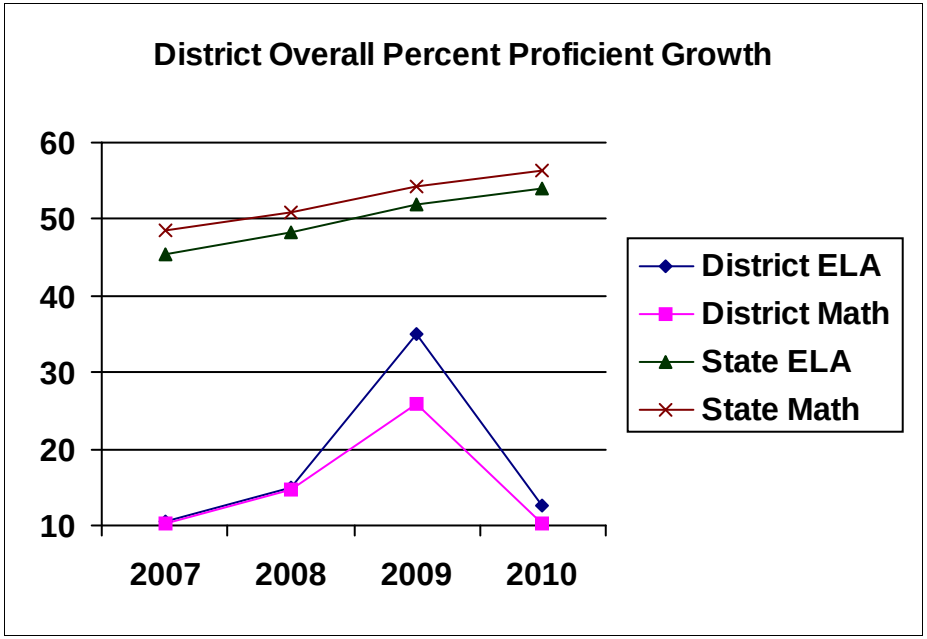
* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 District Accountability Dashboard

CD: 4510454 **County:** Shasta **District:** Shasta County Office of Education **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall	10.6	45.5	10.2	48.5	12.7	53.9	10.2	56.3	2.1	8.4	0.0	7.8
Black/African American	16.7	32.7		31.1		41.3		39.6		8.6		8.5
American Indian/Alaska Native		40.6		40.9		46.7		46.9		6.1		6.0
Asian		68.9		76.6		76.8		82.5		7.9		5.9
Filipino		63.0		65.6		71.5		72.0		8.5		6.4
Hispanic		31.1		37.0		41.7	9.1	46.7		10.6		9.7
Native Hawaiian/Pacific Islander		43.4		47.0		50.7		53.1		7.3		6.1
White	11.6	64.3	12.2	62.8	13.8	70.9	8.1	69.0	2.2	6.6	-4.1	6.2
Socioeconomically Disadvantaged	11.0	30.4	10.1	36.7	11.8	41.1	10.0	46.3	0.8	10.7	-0.1	9.6
English Learners		25.8		35.8		35.6		45.6		9.8		9.8
Students with Disabilities	11.0	20.7	7.7	24.1	18.5	31.8	12.0	34.5	7.5	11.1	4.3	10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2010-2011

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	0	0	0	0	0	0	0	0
High	2	2	1	0	0	0	0	1
Total	2	2	1	0	0	0	0	1

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	0	1	1	0	0	0	0	0
Middle	0	0	0	0	0	0	0	0
High	1	1	1	3	0	0	0	1
Total	1	2	2	3	0	0	0	1

* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

2009-10 Accountability Dashboard

CDS: 19101990102020 **County:** Los Angeles **School:** Today's Fresh Charter **School Type:** Direct Funded Charter

Adequate Yearly Progress (AYP) Proficient for 1 Year

Groups	*2010 ELA Charter	**2010 ELA State	*2010 Math Charter	**2010 Math State
Overall	35.3	53.9	47.1	56.3
Black/African American	32.4	41.3	40.0	39.6
American Indian/Alaska Native	--	46.7	--	46.9
Asian	--	76.8	--	82.5
Filipino	--	71.5	--	72.0
Hispanic	39.6	41.7	60.6	46.7
Native Hawaiian/Pacific Islander	--	50.7	--	53.1
White	--	70.9	--	69.0
Socioeconomically Disadvantaged	35.1	41.1	47.2	46.3
English Learners	42.9	35.6	63.9	45.6
Students with Disabilities	18.8	31.8	21.7	34.5

*2010 Targets: English Language Arts (ELA) 56.8% Math 58.0%

**2010 Targets: English Language Arts (ELA) 56.0% Math 56.4%

Met all ELA percent proficient rate criteria: No Met all Math percent proficient rate criteria: Yes

Made AYP: No

Made API: Yes

Program Improvement (PI) status

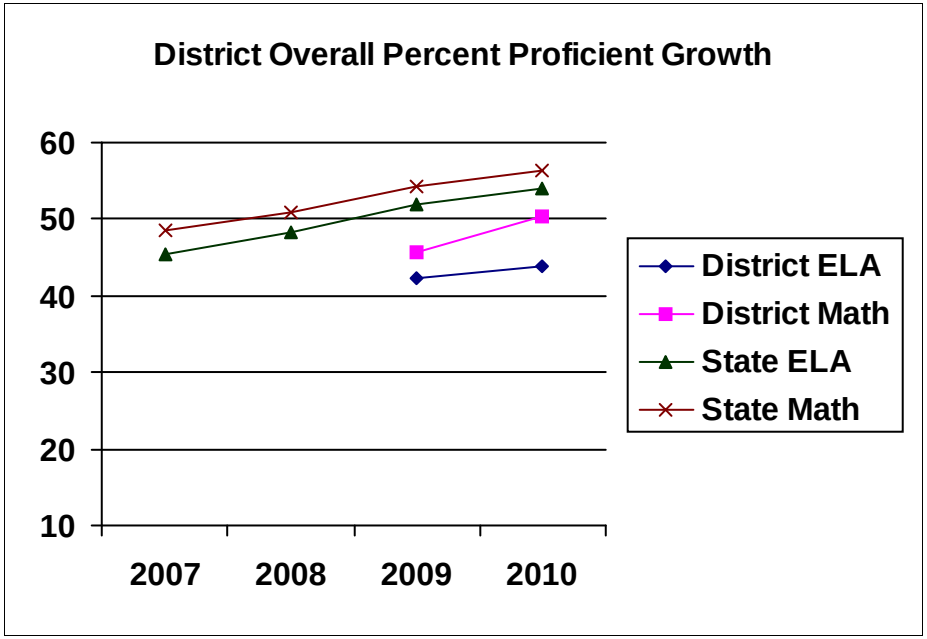
Current Status: In PI, Year 2 First Year Identified: 2008–09

2009-10 District Accountability Dashboard

CD: 3476505 **County:** Sacramento **District:** Twin Rivers Unified **District Type:** Unified

Adequate Yearly Progress (AYP) Percent Proficient Over 4 Years

Groups	* 2007 ELA District	2007 ELA State	* 2007 Math District	2007 Math State	** 2010 ELA District	2010 ELA State	** 2010 Math District	2010 Math State	ELA District Change	ELA State Change	Math District Change	Math State Change
Overall		45.5		48.5	43.9	53.9	50.3	56.3		8.4		7.8
Black/African American		32.7		31.1	33.9	41.3	36.8	39.6		8.6		8.5
American Indian/Alaska Native		40.6		40.9	35.5	46.7	45.2	46.9		6.1		6.0
Asian		68.9		76.6	46.5	76.8	59.1	82.5		7.9		5.9
Filipino		63.0		65.6	62.5	71.5	65.3	72.0		8.5		6.4
Hispanic		31.1		37.0	39.0	41.7	46.9	46.7		10.6		9.7
Native Hawaiian/Pacific Islander		43.4		47.0	36.2	50.7	48.6	53.1		7.3		6.1
White		64.3		62.8	54.0	70.9	58.2	69.0		6.6		6.2
Socioeconomically Disadvantaged		30.4		36.7	40.4	41.1	48.0	46.3		10.7		9.6
English Learners		25.8		35.8	36.2	35.6	49.3	45.6		9.8		9.8
Students with Disabilities		20.7		24.1	26.2	31.8	30.7	34.5		11.1		10.4



District Program Improvement (PI) status (2010-11)

Current Status: In PI First Year Identified: 2010-2011

School PI Status (2010-11)

School Type	Num. of Schools	Num. in Title I	Num. in PI	Year 1	Year 2	Year 3	Year 4	Year 5
Elementary	36	36	22	9	4	0	1	8
Middle	7	7	6	0	1	0	1	4
High	6	6	6	1	1	1	1	2
Total	49	49	34	10	6	1	3	14

Number of Schools That Made AYP and Academic Perfromance Index (API)

School Type	AYP 2007	AYP 2008	AYP 2009	AYP 2010	API 2007	API 2008	API 2009	API 2010
Elementary	0	0	16	7	0	0	18	20
Middle	0	0	1	1	0	0	3	3
High	0	0	0	2	0	0	0	1
Total	0	0	17	10	0	0	21	24

* 2007 Targets: English-language arts (ELA) 23.0% Math 23.7%
** 2010 Targets: ELA 56.0% Math 56.4%

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 6

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Inclusion of Middle School Dropouts in the Academic Performance Index – Adopt Amendments to *California Code of Regulations,* Title 5, Section 1039.1.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE):

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In March 2011, the SBE took action to begin the rulemaking process for the adoption of regulations pursuant to California *Education Code* (*EC*) Section 52052.1 that would allow for the inclusion of middle school dropouts in the Academic Performance Index (API). The 45-day public comment period for the proposed regulations closed on May 9, 2011.

SUMMARY OF KEY ISSUES

The CDE received seven letters with comments on the proposed regulations during the 45-day public comment period. Responses to relevant public comments are addressed in the Final Statement of Reasons. No amendments or edits have been made to the proposed regulations.

FISCAL ANALYSIS (AS APPROPRIATE)

The Economic and Fiscal Impact Statement was previously submitted in the March 2011 Agenda. No fiscal impact.

ATTACHMENT(S)

Attachment 1: Final Statement of Reasons (5 Pages)

Attachment 2: Proposed *California Code of Regulations*, Title 5, Section 1039.1 (3 Pages)

FINAL STATEMENT OF REASONS
INCLUSION OF MIDDLE SCHOOL DROPOUTS IN THE ACADEMIC PERFORMANCE INDEX

UPDATE OF INITIAL STATEMENT OF REASONS

The original proposed text was made available for public comment for at least 45 days from March 25, 2011, through May 9, 2011. Seven written comment letters were received during that period. A public hearing was held at 1:00 p.m. on May 9, 2011, at the California Department of Education (CDE). There were no comments made at the public hearing. Pursuant to California Government Code sections 11346.9(a)(3) and (a)(5), the CDE, on behalf of the State Board of Education (SBE), has summarized and responded to the written comments as follows:

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF MARCH 25, 2011 THROUGH MAY 9, 2011, INCLUSIVE.

ROBERT WOLFE, ASSISTANT SUPERINTENDENT, MENIFEE UNION LEMENTARY SCHOOL DISTRICT

Comment A1: Authorizing districts do not have administrative control over direct-funded charter schools and non-for-profit public corporation charter schools and their data systems. Therefore, authorizing district dropout data should not include data from direct-funded charter schools and non-for-profit public corporation charter schools.
Reject: For accountability purposes, the CDE considers direct-funded charter schools to be their own local educational agencies (LEA). Therefore, authorizing district accountability data do not include direct-funded charter schools. Not-for-profit public corporation charter schools that are not direct-funded charter schools are considered schools and will have their data included with their authorizing district's accountability data. Therefore, no changes to the regulations are necessary.

SHERRY SKELLY GRIFFITH, ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS (ACSA), GOVERNMENTAL RELATIONS

Comment B1: Supports the definitions for grade eight and nine dropout rates including the definition of a grade eight and nine academic year dropout. Also supports attributing the eighth grade and ninth grade academic in school year dropout rate to the grade eight or nine school and the LEA in which the pupil was last enrolled.
Accept: No change is necessary.

Comment B2: Supports the definition of grade eight transition dropouts and attributing the rate to the LEA in which the pupil completed grade eight. By attributing dropouts to the LEA, there is a greater incentive for the LEA to reach out to potentially at risk summer transition students to ensure they enroll into a feeder high school. These regulations may promote stronger dropout recovery and prevention programs within an

LEA as they begin to track their middle grades dropouts through the Academic Performance Index (API).
Accept: No change is necessary.

Comment B3: Add “local educational agency” and “expulsion” to the definition of eighth or ninth grade dropout to read, “the pupil has a temporary school or local educational agency recognized absence due to suspension, expulsion or illness.”
Reject: Existing California Longitudinal Pupil Achievement Data System (CALPADS) exit codes will be used to determine dropouts. Schools and LEAs report exit code information to the CDE to determine dropouts. In the event a student was expelled, the student would be expected to enroll in another school. If, however, the student does not enroll in another school, the student is considered a dropout and must be attributed to the last school in which he or she was enrolled. This definition aligns with the U.S. Department of Education National Center for Education Statistics (NCES) Common Core of Data (CCD) definition of dropouts. Therefore, no changes to the regulations are necessary.

JEANNIE PON, ASSISTANT SUPERINTENDENT, MIDDLE SCHOOLS, SAN FRANCISCO UNIFIED SCHOOL DISTRICT

Comment C1: Given the continued budget cuts to education and the layoffs of staff, ensuring the promotion of 8th graders to the 9th grade will be more challenging than ever. This is a punitive measure and will demoralize the hard-working educators who continue to do more with less.
Reject: LEAs are required to collect and report accurate dropout data pursuant to California Education Code section 52052.1. Therefore, no changes to the regulations are necessary.

GLYNDA MARTIN, DIRECTOR, EDUCATION SERVICES, STANDARD SCHOOL DISTRICT

Comment D1: Once K-8 districts un-enroll students after completing grade eight, there is not a way to track them. When families leave, districts have no way of finding students until they get a request for a cumulative folder. These regulations are unfair and unjust for accountability purposes. We propose postponing these regulations until we have reauthorization of the ESEA. Adding another burden of accountability to the State School System and to local school districts is not in the best interest of students.
Reject: Although it may be difficult to track students, LEAs are required to collect and report accurate dropout data pursuant to Education Code section 52052.1. Attributing dropouts to grade eight and holding kindergarten through grade eight districts accountable for students until they are enrolled in grade nine is consistent with Education Code section 52052.1. Therefore, no changes to the regulations are necessary.

LIZ GUILLEN, DIRECTOR OF LEGISLATIVE AND COMMUNITY AFFAIRS, PUBLIC ADVOCATES INC.

Comment E1: The definition for grade eight academic year dropout does not include in its definition students who leave school during eighth grade and then enroll the following fall as ninth graders. While it may not be appropriate to define these students as dropouts, their absence should be accounted for or tracked in some way, for example in an eighth grade completion rate.
Reject: No specific suggestion is made for revision of the regulation. Students who leave school and re-enroll prior to the first Wednesday in October are not considered dropouts. This definition is consistent with the U.S. Department of Education National Center for Education Statistics (NCES) Common Core of Data (CCD) definition of dropouts. Therefore, no changes to the regulations are necessary.

Comment E2: The definition of enrollment as the denominator for the dropout rates does not address the promotion (or graduation) rate of middle schools.
Reject: No specific suggestion is made for revision of the regulations. The denominators of the dropout rates include the number of students that dropped out plus the number of students who successfully completed the grade by the end of the academic school year. The purpose of these regulations is to define the dropout rates to be included in the API. Therefore, no changes to the regulations are necessary.

Comment E3: The regulations do not provide guidance to districts and schools in determining whether students actually left the state.
Reject: Schools and LEAs are required to collect and report accurate dropout data pursuant to Education Code section 52052.1. Using the CALPADS exit codes, schools and LEAs are able to successfully track and report data to the CDE on students that leave the California public school system, move out of state, and/or out of the country. Therefore, no changes to the regulations are necessary.

Comment E4: Stating that a pupil is not a dropout if they have a temporary school-recognized absence due to suspension or illness by the first Wednesday in October of the following year inappropriately excludes suspended students from the definition of a dropout. The definition of a dropout in eighth and ninth grades should include students who are suspended or expelled and not known to be in an education program leading towards eighth or ninth grade completion. Recommend amending (E) as follows: The pupil has a temporary school-recognized absence due to ~~suspension or~~ illness; or.
Reject: The definition of who is not a dropout is consistent with the U.S. Department of Education National Center for Education Statistics (NCES) Common Core of Data (CCD) definition of dropouts. Students who have temporary absences due to suspension or illness are still enrolled in school and therefore are not considered dropouts. Students who are suspended or expelled and not known to be in an education program are not enrolled in school and are considered dropouts. Therefore, no changes to the regulations are necessary.

Comment E5: The regulations do not address the manner in which the API will reflect the mid-year transfer of students from a middle school to an alternative school to ensure

that the placement of students is in their best interests pursuant to Education Code section 52052.1(a)(1).
Reject: The scope of these regulations is California Education Code section 52052.1(a)(3), to include school and school district dropout rates for pupils who drop out of school while enrolled in grade eight or grade nine. A student who transfers to an alternative school is considered to be still enrolled and therefore is not considered a dropout. Therefore, no changes to the regulations are necessary.

Comment E6: The regulations do not address the length of time for which this accountability data on students in alternative programs should be assigned to the school or district pursuant to California Education Code section 52052.1(b)(1).
Reject: The scope of these regulations is California Education Code section 52052.1(a)(3), to include school and school district dropout rates for pupils who drop out of school while enrolled in grade eight or grade nine. The length of time for which accountability data on students in alternative programs should be assigned to the school or district is pursuant to California Education Code section 52052.1(a)(1) and not section 52052.1(a)(3). Therefore, the length of time does not need to be addressed.

Comment E7: The requirements of California Education Code section 52052.1 should apply to charter middle schools.
Reject: The scope of these regulations is California Education Code section 52052.1(a)(3), to include school and school district dropout rates for pupils who drop out of school while enrolled in grade eight or grade nine. These regulations apply to any school with grade eight enrollment, or with grade nine enrollment and grade nine as the highest grade offered, including charter schools.

TERRI RUFERT, SUPERINTENDENT, SUNDALE UNION SCHOOL DISTRICT

Comment F1: Concerned with how the 8th grade transition dropout will affect small schools. Commenter suggests a waiver process for small schools and a correction period.
Reject: No specific suggestion is made for revision of the regulations. The CDE provides guidance to schools and LEAs to ensure accurate data are collected and reported through the CALPADS. The LEA will have the opportunity to review the middle school dropout report in DataQuest and will be provided with a student-level dropout report through CALPADS prior to submitting final dropout data to the CDE.

JOHN BOHANNON, PRINCIPAL, CHICO JUNIOR HIGH SCHOOL

Comment G1: The data system is not strong enough to track students no matter where they may go or what may happen to them during the summer between grade eight and grade nine. Any number of things can happen to a student over the summer between grade eight and grade nine. If shaky data are used to make decisions about middle schools, then we could be making decisions that have a big impact on students unnecessarily.
Reject: Although it may be difficult to track students, LEAs are required to collect and report accurate dropout data pursuant to Education Code section 52052.1.

ALTERNATIVES DETERMINATION

The SBE has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

LOCAL MANDATE DETERMINATION

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

5-23-11 [California Department of Education]

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

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 2. Pupils

Subchapter 4. Statewide Testing of Pupils and Evaluation Procedures

Article 1.8. Inclusion of Alternative Education Program Accountability Results and Middle School Dropouts in the Academic Performance Index (API).

§ 1039.1. Definition of the Dropout Rate for the Purpose of Inclusion in the API.

(a) For the purpose of this article, the "Grade Eight Dropout Rate" and the "Grade Nine Dropout Rate" are one year rates equal to the number of dropouts divided by enrollment.

(1) The Grade Eight Dropout Rate for the purpose of inclusion in the API is calculated for each school and local educational agency (LEA) with a grade eight enrollment greater than zero. The school Grade Nine Dropout Rate for the purpose of inclusion in the API is calculated for each school with grade nine as the highest grade offered at the school with a grade nine enrollment greater than zero. The LEA Grade Nine Dropout Rate for the purpose of inclusion in the API is calculated using dropout and enrollment information from only those schools in the LEA with grade nine as the highest grade offered at the school with a grade nine enrollment greater than zero.

(2) The number of dropouts in the school Grade Eight Dropout Rate is equal to the number of grade eight academic year dropouts. The number of dropouts in the school Grade Nine Dropout Rate is equal to the number of grade nine academic year dropouts.

(3) The number of dropouts in the LEA Grade Eight Dropout Rate is equal to the number of grade eight academic year dropouts plus the number of grade eight transition dropouts. The number of dropouts in the LEA Grade Nine Dropout Rate is equal to the number of grade nine academic year dropouts plus the number of grade nine transition dropouts.

(b) A "grade eight academic year dropout" means a pupil who enrolled in grade eight during the academic school year, left school prior to completing the academic school

year, and was not enrolled at any school on the first Wednesday in October of the following academic year. A grade eight academic year dropout is attributed to the grade eight school and the LEA in which the pupil was last enrolled.

(c) A “grade eight transition dropout” means a pupil who was enrolled in grade eight at the end of the academic school year, and did not begin attending grade nine or any other grade in any school by the subsequent academic school year up to the first Wednesday in October of the following academic year. A grade eight transition dropout is attributed to the LEA in which the pupil completed grade eight.

(d) A “grade nine academic year dropout” means a pupil who enrolled in grade nine during the academic school year, left school prior to completing the academic school year, and was not enrolled at any school on the first Wednesday in October of the following academic year. A grade nine academic year dropout is attributed to the grade nine school in which the pupil was last enrolled.

(e) A “grade nine transition dropout” means a pupil who was enrolled in grade nine at the end of the academic school year, and did not begin attending grade ten or any other grade in any school by the subsequent academic school year up to the first Wednesday in October of the following academic year. A grade nine transition dropout is attributed to the LEA in which the pupil completed grade nine.

(1) A pupil is not a grade eight academic year dropout**,** grade eight transition dropout, grade nine academic year dropout, or grade nine transition dropout if he or she meets any of the following conditions by the first Wednesday in October of the academic year following his or her enrollment in grade eight for grade eight academic year dropouts and grade eight transition dropouts or enrollment in grade nine for grade nine academic year dropouts and grade nine transition dropouts:

(A) The pupil transferred to and attended another public or private educational institution leading toward a high school diploma or its equivalent. This definition does not include adult education programs;

(B) The pupil received a high school diploma or its equivalent (General Educational Development [GED] exam, California High School Proficiency Examination [CHSPE], or adult education high school diploma program);

(C) The pupil transferred to and attended a college offering a baccalaureate or an associate's program;

(D) The pupil moved out of California;

(E) The pupil has a temporary school-recognized absence due to suspension or illness; or

(F) The pupil died.

(2) Enrollment for the purpose of calculating the Grade Eight Dropout Rate is equal to the number of grade eight academic year dropouts plus the number of prospective grade nine pupils. Prospective grade nine pupils include those pupils who have successfully completed grade eight by the end of the academic school year. Enrollment for the purpose of calculating the Grade Nine Dropout Rate is equal to the number of grade nine academic year dropouts plus the number of prospective grade ten pupils. Prospective grade ten pupils include those pupils who have successfully completed grade nine by the end of the academic school year.

(d) For the purposes of this article "academic year" begins July 1 and ends June 30.

NOTE: Authority cited: Sections 33031 and 52052, Education Code. Reference: Sections 37200, 52052 and 52052.1, Education Code.

01-05-11 [California Department of Education]

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 7

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
California English Language Development Test Program: Approve Commencement of the Rulemaking Process for Amendments to the *California Code of Regulations,* Title 5, Sections 11510 Through 11517.5.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the CDE to commence the rulemaking process.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE first adopted regulations for the California English Language Development Test (CELDT) Program in 2001 and adopted amendments in July 2005 in order to comply with the accountability requirements under Title III, Part A, Section 3122 of the Elementary and Secondary Education Act of 1965 (Public Law 107–110).

SUMMARY OF KEY ISSUES

The CDE is proposing amendments to the *California Code of Regulations* (*CCR),* Title 5, for the CELDT Program in response to needs that have arisen during the administration of the CELDT Program. Amendments are also proposed to clarify and to make the language consistent throughout, and to address the use of American Sign Language (ASL) when making primary language determinations. The key purposes of the proposed amendments are as follows:

- Add new definitions for domains, initial assessment window, lowest obtainable scale score, and nonpublic schools.

SUMMARY OF KEY ISSUES (cont)

- Refine definitions for accommodation, alternate assessment, annual assessment window, home language survey, modification, record of results, school districts, scribe, site coordinator, test examiner, and test materials.
- Add a reference to clarify the appropriate use of ASL when making primary language determinations.
- Update the definition of school districts to be consistent with California *Education Code* (*EC*) sections 47605(j) and 47605.8 and *CCR*, Title 5, Section 11967.6.
- Clarify the duties and responsibilities of CELDT district and site coordinators as required by instructions from the test contractor.
- Clarify language regarding state and federal reporting rules for data collection and correction.
- Clarify current coordinator testing protocols and procedures for keeping test materials secure, and ensure clear and concise language throughout.
- Clarify the dates and testing windows that are applicable to the CELDT Program.
- Clarify language regarding the provision of alternate assessments for students with individualized education programs (IEPs) or Section 504 Plans.
- Re-number and re-alphabetize sections as required by the amendments.

Make consistent the use of capitalization when referring to IEPs or Section 504 Plans to other statewide testing programs and State policy.

FISCAL ANALYSIS (AS APPROPRIATE)

The Economic and Fiscal Impact Statement will be provided as an Item Addendum.

ATTACHMENT(S)

Attachment 1: Notice of Proposed Rulemaking (5 Pages)

Attachment 2: Initial Statement of Reasons (8 Pages)

Attachment 3: *California Code of Regulations*, Title 5, Sections 11510–11517.5 (19 Pages)

Attachment 4: Economic and Fiscal Impact Statement (4 Pages)

CALIFORNIA DEPARTMENT OF EDUCATION
TOM TORLAKSON, State Superintendent of Public Instruction
916-319-0800

CALIFORNIA STATE BOARD OF EDUCATION
MICHAEL W. KIRST, President
916-319-0827

1430 N Street Sacramento, CA 95814-5901

NOTICE OF PROPOSED RULEMAKING

AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5
REGARDING CALIFORNIA ENGLISH LANGUAGE DEVELOPMENT TEST (CELDT)

[Notice published July 29, 2011]

NOTICE IS HEREBY GIVEN that 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

California Department of Education (CDE) staff, on behalf of the SBE, will hold a public hearing at 1:30 p.m. on September 13, 2011, at 1430 N Street, Room 1801, 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 SBE requests, but does not require, that persons who make oral comments at the hearing also submit a written 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:

Debra Thacker, Regulations Coordinator
Administrative Support and Regulations Adoption Unit
California Department of Education
1430 N Street, Room 5319
Sacramento, California 95814

Comments must be received by the Regulations Coordinator by 5:00 p.m. on September 13, 2011. All written comments received by CDE staff during the public comment period are subject to disclosure under the Public Records Act.

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 or may modify the proposed regulations if the modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified regulation will be available for 15 days prior to its adoption from the Regulations Coordinator and will be mailed to those persons who submit written comments related to this regulation, or who provide oral testimony at the public hearing, or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Authority: Section 33031 and 60810, Education Code.

Reference: Sections 306, 313, 37200, 49068, 49076, 48985, 52164.1, 56034, 56365, 60810, 60812 and 62002, Education Code; Sections 1111(b)(7) of Title I and 3113(b)(3)(D) of Title III of the ESEA; 20 U.S.C. Sections 1232(g), 6841-6842, 6311; and 34 C.F.R. Section 300.138(b)(1)(2).

INFORMATIONAL DIGEST/POLICY STATEMENT OVERVIEW

California Code of Regulations, Title 5, for the California English Language Development Test (CELDT) serves to guide local educational agencies (LEAs) in the administration of the program and the reporting of pupil demographic data to the State. The CDE proposes amendments to the California Code of Regulations, Title 5, for the CELDT Program in response to needs that have arisen during the administration of the CELDT Program, and to clarify and ensure consistency across all components of the CELDT Program. The key purposes of the proposed amendments are to:

- Add new definitions for domains, initial assessment window, lowest obtainable scale score, and nonpublic schools.

- Refine definitions for accommodation, alternate assessment, annual assessment window, home language survey, modifications, record of results, school districts, scribe, site coordinator, test examiner, and test materials.

- Add a reference to clarify the appropriate use of American Sign Language when making primary language determinations.

- Update the definition of school districts to be consistent with *Education Code* sections 47605(j) and 47605.8 and *California Code of Regulations*, Title 5, section 11967.6.

- Clarify the duties and responsibilities of CELDT district and site coordinators as required by instructions from the test contractor.

- Clarify language regarding data collection, correction, and reporting rules as required in *Education Code* 60810(c), and per state and federal accountability rules.

- Clarify the applicable dates and testing windows that are inclusive to the CELDT Program.

- Clarify language regarding the provision of alternate assessments for students with individualized education programs (IEPs) or Section 504 Plans.

- Make consistent the use of capitalization when referring to Section 504 Plans to other statewide testing programs and State policy.

DISCLOSURES REGARDING THE PROPOSED REGULATION

The SBE has made the following initial determinations:

Mandate on local agencies or school districts: TBD

Cost or savings to state agencies: TBD

Costs to any local agencies or school districts for which reimbursement would be required pursuant to Part 7 (commencing with section 17500) of division 4 of the Government Code: 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 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.

Effect on housing costs: TBD

Effect on small businesses: The proposed amendments to the regulations do not affect small businesses because the regulations apply only to school districts and not to business practices.

CONSIDERATION OF ALTERNATIVES

The SBE must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the 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 content of this regulation may be directed to:

Aileen Allison-Zarea, Education Programs Consultant
Assessment and Accountability Division
California Department of Education
1430 N Street
Sacramento, CA 95814-5901
Telephone: 916-323-6860
E-mail: aallisonzarea@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Cynthia Olsen, Regulations Analyst, at 916-319-0860.

INITIAL STATEMENT OF REASONS AND INFORMATION

The SBE has prepared an initial statement of reasons for the proposed regulation and has available all the information upon which the proposal is based.

TEXT OF PROPOSED REGULATION AND CORRESPONDING DOCUMENTS

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Regulations Coordinator. These documents may also be viewed and downloaded from the CDE's Web site at http://www.cde.ca.gov/re/lr/rr.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the Regulations Coordinator.

You may obtain a copy of the final statement of reasons, once it has been finalized, by making a written request to the Regulations Coordinator.

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 Aileen Allison-Zarea, Education Programs Consultant, Assessment and Accountability Division, 1430 N Street, Sacramento, CA, 95814-5901; telephone, 916-323-6860. It is recommended that assistance be requested at least two weeks prior to the hearing.

INITIAL STATEMENT OF REASONS

California English Language Development Test (CELDT)

INTRODUCTION

The California Code of Regulations (CCR), title 5, for the California English Language Development Test (CELDT) Program serves to guide local educational agencies (LEAs) in administering the CELDT Program and reporting of student demographic data to the State of California (State).

The California Department of Education (CDE) proposes amendments to the CCR, title 5 that are necessary to administer the CELDT Program assessments and to clarify and ensure consistency across all components of the CELDT Program and, where appropriate, other assessment programs.

General changes to regulations for clarity and consistency with title 5 include:

- Replace references to test “sections” with the broader term “domain(s)”;
- Various grammatical changes;
- Replacing “Department” with “CDE”;
- Replacing “is” with “means” throughout much of section 11510;
- Adding the abbreviation (SBE) for the State Board of Education;
- Adding a clarification that pupils who use American Sign Language and do not have a primary language other than English on a home language survey do not have to be assessed for initial identification as an English learner in section 11511(a)(1)(A).
- Adding the abbreviation (Report) or (Reports) for the “apportionment information report”;
- Replacing the terms “student”, “adult student”, and “test taker” with “pupil”;
- Replacing “California English Language Development Test” with the abbreviation “CELDT”;
- Replacing “test” with “Test”;
- Replacing “individualized education program” with “IEP”;
- Renumbering or re-lettering sections to reflect deletions or additions of regulations and/or subdivisions; and
- Replacing the term “Section 504 plan” with “Section 504 Plan”.

SPECIFIC PURPOSE OF EACH REGULATION – GOV. CODE SECTION 11346.2(b)(1)

The specific purpose of the amendment or adoption, and the rationale for the determination that the amendment or adoption is reasonably necessary to carry out the purpose for which it is proposed, together with a description of the public problem, administrative requirement, or other condition or circumstance that each amendment or adoption is intended to address, is as follows:

SECTION 11510

Proposed section 11510 is amended to clarify the terms for purposes of the CELDT program.

Proposed section 11510(a) is amended to delete examples of accommodations as they are not necessary and are confusing because greater specificity is provided in section 11516.

Proposed section 11510(c) is amended to delete “means” and replace with “method or process” for clarity.

Proposed section 11510(e) is amended to add “means the time period that” to the definition of “annual assessment window” for clarity.

Proposed section 11510(i) is added to clarify the four sections of the CELDT and to clarify the requirement of reporting a comprehension score as required by the Elementary and Secondary Education Act (ESEA) in 20 U.S.C. Sections 6841-6842. This is necessary to avoid repeating the four domains of Listening, Speaking, Reading, and Writing throughout, and to define the comprehension score.

Proposed section 11510(k) is amended to remove “level” from the definition of “grade” for clarity.

Proposed section 11510(l) is amended to revise the definition for home language survey to clarify this process for primary language determination. This is necessary to clarify that primary language determination is a process, not a specific form, in which parents or guardians indicate the language(s) used in the home on a survey to aid the LEA in making a primary language determination for a pupil, and that primary language needs only to be determined once, upon initial enrollment.

Proposed section 11510(n) is added to distinguish the initial assessment window from the annual assessment window in subdivision (e).

Proposed section 11510(o) is added to define the term that refers to the lowest obtainable scale score as reported on the Student Performance Level Report for pupils with disabilities who use an alternate assessment in one or all domains of the CELDT.

Proposed section 11510(q) is added as set forth in Education Code section 56034 to introduce the acronym “NPS” for the term “Nonpublic schools” as used for state reporting purposes.

Proposed section 11510(v) is amended to add “any statewide benefit charter” to the definition of “School districts” to address amendments to Education Code sections 47605(g) and 47605.8 and title 5, section 11967.6.

Proposed section 11510(w) is amended to add “who has signed the Test Security Affidavit” to the definition of “Scribe” to clarify the test security requirement.

Proposed section 11510(z) is amended to add “and has signed the Test Security Affidavit” to the definition of “Test examiner” to clarify the test security requirement.

Proposed section 11510(aa) is amended to replace “background” with “demographic” to the definition for “Test materials” for correctness and consistency with state reporting terminology.

SECTION 11511

Proposed section 11511(a)(1) is amended to remove “the” and replace with “a” to clarify that there is not only one home language survey, remove unnecessary language, identify the CELDT as the only state test for English language proficiency, and clarify where to find information on alternate assessments in these regulations.

Proposed section 11511(a)(1)(A) is added for clarity to read “Pupils who use American Sign Language or another sign language, as the only language other than English as reported on a home language survey, shall not be assessed for English proficiency”. This addition is necessary to clarify for LEAs that for purposes of the CELDT, ASL is not considered a primary language other than English because LEAs frequently have questions when making determinations of primary language when ASL is noted on a HLS.

SECTION 11511.5

Proposed section 11511.5 is amended to add “the official individual test” to clarify the document required to comply with the provisions of Education Code section 48985. This is necessary to distinguish between the individual student score reports received six to eight weeks after scoring, and the school or district group summary reports received each spring.

SECTION 11511.6

Proposed section 11511.6 is amended to clarify language regarding aggregate reporting criteria of pupil counts of three or fewer to ensure privacy of individuals. These changes are nonsubstantive but are necessary for clarity.

SECTION 11512

Proposed section 11512(d) is a nonsubstantive change that clarifies the statutory reference to 20 U.S.C. Sections 6841 – 6842.

SECTION 11512.5

Proposed section 11512.5(a) is amended to replace “the analyses” with “analysis”

to update the citation to 20 U.S.C. Sections 6841 – 6842. These changes are necessary for clarity.

Proposed section 11512.5(a)(9) is amended to delete “special education and 504 plan status” and replace with “Testing irregularities by domain” to reflect current reporting specifications. The deletion is necessary because, for purposes of the CELDT, special education status is not collected. However, if a student with disabilities takes the test with an accommodation, modification, or alternate assessment, this data is collected on the answer document. The addition is necessary because testing irregularities must be reported to address test security issues that may affect scoring and reporting.

Proposed section 11512.5(a)(11) is amended to add “race/ethnicity” to reflect that both race and ethnicity information is collected as required by Education Code section 60810(c).

Proposed section 11512.5(a)(12) is amended to reflect “date” not “year” a pupil first enrolls to align with ESEA Title III reporting requirements.

Proposed section 11512.5(a)(13) is amended to delete “school mobility” and replace with “month and year of most recent previous test administration [but not prior to the 2006-07 school year]” to reflect current ESEA Title III reporting requirements. The deletion is necessary because for purposes of the CELDT, school mobility information is not collected. The addition is necessary because the month and year of the most recent previous test administration are required for Title III accountability purposes, and test results prior to 2006-07 are no longer comparable to current scores due to a new common scale established in 2006.

Proposed section 11512.5(a)(14) is amended to add “scale” to clarify the type of score and to identify the range of years in which pupil scale scores may be collected for accurate data reporting requirements. Test results prior to 2006-07 are no longer comparable to current scores due to a new common scale established in 2006.

Proposed section 11512.5(a)(17) is amended to delete “level” and insert “in which pupil was enrolled during” for clarity.

Proposed section 11512.5(a)(18) is amended by word order for clarity and to ensure the use of consistent terminology throughout.

Proposed section 11512.5(a)(19) is amended to add “by domain(s)” to indicate that alternate assessments may be used for more than one domain for this data element, and to lowercase alternate assessment for correctness. Reordering of accommodation and modification made for consistency with other regulations.

Proposed section 11512.5(a)(20) is amended to delete “California School Information Services (CSIS)” and replace with “Statewide Student Identifier (SSID)” as required for current federal data reporting requirements. This is necessary

because CSIS is a vendor-specific term and is no longer used for statewide reporting.

Proposed sections 11512.5(a)(21) and **(22)** are added to comply with the requirements of Part B of the Individuals with Disabilities Education Act (IDEA) [34 CFR §300.347(a)(5)] regarding Individualized Education Programs (IEPs) for children with disabilities.

SECTION 11513

Proposed section 11513(b) is amended to add, "…shall complete all duties in accordance with instructions from the test contractor. The CELDT district coordinator's…duties:" for clarity of the duties required of the test coordinator by the test contractor to ensure standardization of test administration to maintain the validity and reliability of the CELDT.

Proposed section 11513(b)(1) is amended to add "and the CDE" and "in these regulations" to the description of duties to clarify that district coordinators must follow directions provided by the state in addition to those provided by the test contractor to ensure standardization of test administration to maintain the validity and reliability of the CELDT.

Proposed section 11513(b)(3) is amended to delete "Overseeing" and replace with "Ensuring delivery" to clarify that secure testing materials must be accounted for at all times.

Proposed section 11513(b)(4) is amended to add "…and Test Security Affidavit as…" for clarity of the security requirements of the CELDT coordinator duties requiring that they sign "both" the Test Security Affidavit for Examiners and Proctors and the Test Security Agreement for district and site coordinators. These changes are necessary because the "Affidavit" certifies acceptance of the confidentiality requirements for administering the CELDT, and the "Agreement" certifies acceptance of coordinator duties while supervising others who handle secure Test materials and the secure storage of these materials before and after testing. Additionally, this section is amended to replace "...for 12 months from the date signed." with "…until the end of the initial assessment window each year" to clarify that security forms are to be kept on file until the end of the administration year. This is necessary because coordinators and test examiners often sign the security forms prior to the beginning of the Test administration year, and 12 months from the date signed will not ensure that the forms are kept on file for the entire upcoming school year.

Proposed section 11513(b)(6) is amended to add "within the required time periods" for clarity.

Proposed section 11513(b)(7) is amended to clarify reporting and data correction specifications in relation to data files of pupil-level information for consistency with

other statewide testing programs and the reporting requirements of the California Longitudinal Pupil Achievement Data System (CALPADs).

Proposed section 11513(b)(8) is added to clarify training requirements that were not specified in the previous regulations.

Proposed section 11513(b)(9) is amended to remove “school” from description for accuracy.

Proposed section 11513(b)(10) is amended to remove “school” from the description of testing locations because test sites may be located at county offices, home/hospital settings, or other locations.

Proposed section 11513(b)(11) is amended for clarity regarding shipping of test materials during or after the initial and annual assessment windows.

Proposed section 11513(b)(12) is amended to delete “unopened” and replace with “secure” for correctness and clarity to prevent handling errors on site within the districts prior to delivery to test sites.

Proposed section 11513(b)(14) is amended to clarify that coordinators must follow the test contractor instructions regarding security breaches and/or testing irregularities.

Proposed section 11513(b)(15) is added to clarify the requirements of the CELDT district coordinator for data correction and review.

Proposed section 11513(b)(16) is added to clarify the training requirement of all CELDT site coordinators to ensure standardization of this duty.

SECTION 11513.5

Proposed section 11513.5(a) is amended to add “…discrepancies, inconsistencies in materials or reports, and/or other…” to the duties description of the CELDT Site Coordinator to ensure proper reporting.

Proposed section 11513.5(b) is amended for consistency with section 11513(b) and to specify that site coordinators must complete all duties in accordance with test contractor instructions. This is necessary to clarify that site coordinators, in addition to district coordinators, are required to understand and comply with contractor instructions to ensure the security and proper administration of the Test.

Proposed section 11513.5(b)(1) is amended to add “…and communicating the site needs to the district coordinator…” in order to ensure efficient communication and proper test administration.

Proposed section 11513.5(b)(4) is amended to delete “Delivering” and replace with

"Providing", add "been trained to administer the Test and have", and delete "Agreements" and replace with "Affidavits" to reflect test contractor's test administration requirements for clarity and correctness, and to ensure the standardization of administration and security of the CELDT.

Proposed section 11513.5(b)(5) is amended to add "proctors" to the list of personnel required to execute Test Security Affidavits to ensure the security of the CELDT.

Proposed section 11513.5(b)(6) is added to specify that it is the responsibility of the site coordinator to submit test security affidavits for test examiners and proctors to the district coordinator, which will be retained at the district office for one year.

Proposed section 11513.5(b)(7) is amended to add "materials" for clarity.

Proposed section 11513.5(b)(8) is amended to add "…on the date of testing in accordance with instructions from the test contractor…" to clarify the length of time secure materials should be in the test examiner's possession.

Proposed section 11513.5(b)(12) is added to specify notification requirements as provided in test instructions from the test contractor regarding security breaches or testing irregularities that occur during the administration of the CELDT to ensure the validity and security of the Test.

SECTION 11514

Proposed section 11514(f) is amended to add "CELDT district coordinator" and "and other district employees" to the list of persons having access to the secure test materials. This is necessary because all individuals with access to secure test materials must sign the Test Security Affidavit to ensure the security of the CELDT.

Proposed section 11514(g)(10)(B) is amended to replace "California English Language Development Test booklet" with "test materials" for clarity.

Proposed section 11514(h) is amended to remove "test" for consistency.

SECTION 11516.6

Proposed section 11516.6(b)(2) is amended to replace "/" with "," and to remove "section" and replace with "domains" for clarity.

Proposed section 11516.6(c) is amended to replace "a scored marked "not valid"" with "the LOSS" to reflect a change in terminology in the reporting specifications for students who take the CELDT with modifications.

Proposed section 11516.6(d) is amended to add "to the CDE" to the description of requesting variations not listed in the statewide testing matrix for students with IEPs

or Section 504 Plans to clarify that proposals for new test variations be made by the CDE.

SECTION 11516.7

Proposed section 11516.7(a) is amended to clarify language relating to the provision of alternate assessments for English language proficiency as provided in 34 C.F.R. Section 300.138(b)(1)(2).

Proposed section 11516.7(b) is amended to clarify the location of the description of the scores reported for individual students who were administered alternate assessment(s).

SECTION 11517.5

Proposed section 11517.5(a)(2) is amended to delete "following each testing window" and replace with "for the prior school year's CELDT administration" for clarity. This is necessary to distinguish between the previous year's initial assessment window and the current year's annual assessment window, both of which end prior to the November 15 deadline.

OTHER REQUIRED SHOWINGS – GOV. CODE SECTION 11346.2(b)(2)-(4)

Reasonable Alternatives Considered Or Agency's Reasons For Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(3)(A):

No other alternatives were presented to or considered by the SBE.

Reasonable Alternatives That Would Lessen The Impact On Small Business – Gov. Code Section 11346.2(b)(3)(B):

The SBE has not identified any alternatives that would lessen any adverse impact on small business.

Evidence Relied Upon To Support the Initial Determination That the Regulation Will Not Have A Significant Adverse Economic Impact on Business – Gov. Code Section 11346.2(b)(4):

The proposed regulations would not have a significant adverse economic impact on any business because they relate only to schools and school districts.

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

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 7.5. California English Language Development Test

Article 1. General

§ 11510. Definitions.

For the purposes of the ~~t~~Test required by Education Code ~~S~~section 313(a), referred to as the California English Language Development Test (CELDT), the following terms ~~definitions~~ shall ~~apply~~ have the following meanings unless the context indicates otherwise:

(a) "Accommodation" ~~is~~ means any variation in the assessment environment or process that does not fundamentally alter what ~~the~~ a test measures or affect the comparability of scores. ~~"Accommodations" may include variations in scheduling, setting, aids, equipment, and presentation format.~~

(b) An "administration" means a pupil's attempt to take all sections of the ~~California English Language Development Test~~ CELDT, including listening, speaking, reading, and writing.

(c) "Alternate ~~A~~assessment" ~~is~~ means an alternate ~~means~~ method or process to measure the English language proficiency of pupils with disabilities whose ~~I~~individualized ~~E~~education ~~P~~program (IEP) ~~T~~team has determined that they are unable to participate in the ~~California English Language Development Test~~ CELDT even with variations, accommodations~~, variations,~~ or modifications.

(d) "Annual assessments" ~~are~~ means administrations of the ~~California English Language Development Test~~ CELDT to enrolled pupils who are currently identified as English learners.

(e) "Annual assessment window" means the time period that begins on July 1 and ends on October 31 of each school year.

(f)~~(g)~~ "CDE ~~Department~~" is the California Department of Education.

(g)~~(f)~~ "Date of first enrollment" ~~is~~ means the date on which the pupil is scheduled to be in attendance in a California public school for the first time.

(h) "District coordinator" ~~is~~ means an employee of the school district designated by the superintendent of the district to oversee the administration of the CELDT within the district.

(i) “Domains” means the areas of listening, speaking, reading, and writing assessed by the CELDT. The Elementary and Secondary Education Act (ESEA) also requires that comprehension be assessed.

(j)~~(i)~~ "Excessive materials" ~~is~~ means the difference between the sum of the number of ~~t~~Tests scored and 90 percent of the ~~t~~Tests ordered by the district.

(k)~~(j)~~ "Grade ~~level~~" ~~is~~ means the grade assigned to the pupil by the school district at the time of testing.

(l)~~(k)~~ "Home language survey" ~~is~~ means a ~~form~~ process which is administered by the school district only upon first enrollment in a California public school, ~~to be completed by~~ in which the pupil's parent or guardian ~~at the time of first enrollment in a California public school indicating~~ indicates the primary language used in the home which, if completed, fulfills the school district's obligation required by Education Code ~~S~~section 52164.1.

(m)~~(l)~~ "Initial assessment" ~~is~~ means the administration of the ~~California English Language Development Test~~ CELDT to a pupil whose primary language is other than English, as determined by ~~the~~ a ~~H~~home ~~L~~language ~~S~~survey, and who has not previously been assessed for English language proficiency in a California public school.

(n) “Initial assessment window” means the time period that begins on July 1 and ends on June 30 of each school year.

(o) “Lowest obtainable scale score (LOSS)” means the bottom scale score for a given domain and grade.

(p)~~(m)~~ "Modification" ~~is~~ means any variation in the assessment environment or process that fundamentally alters what ~~the~~ a test measures or affects the comparability of scores.

(q) “Nonpublic schools (NPS)” means schools that are nonpublic, nonsectarian

schools as set forth in California Education Code section 56034.

(r)~~(n)~~ "Primary" language ~~is~~ means the language first learned by the pupil, most frequently used at home, or most frequently spoken by the parents or other adults in the home when speaking with the pupil.

(s)~~(o)~~ "Proctor" ~~is~~ means an employee of a school district who has received training specifically designed to prepare him or her to assist the test examiner in administration of the ~~California English Language Development Test~~ CELDT.

(t)~~(p)~~ "Pupil" ~~is~~ means a person enrolled in a California school district in kindergarten through grade 12, or in ungraded programs, including those pupils placed in a nonpublic school through the ~~Individualized Education Program (~~IEP~~)~~ process pursuant to Education Code ~~S~~section 56365.

(u)~~(q)~~ "Records of results" are:

(1) ~~Student~~ Pupil ~~t~~Test results from the pupil's cumulative file;

(2) Parent notification letter of ~~student~~ pupil results;

(3) Previous or current school district pupil electronic data files;

(4) Student ~~Proficiency~~ Performance Level Reports; and

(5) Verification from prior school district.

(v)~~(r)~~ "School districts" include elementary, high school, and unified school districts, county offices of education, ~~and~~ any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter, any statewide benefit charter, and any other charter school chartered by the State Board of Education (SBE).

(w)~~(s)~~ "Scribe" ~~is~~ means an employee of the school district, or a person assigned by a nonpublic school to implement a pupil's IEP who has signed the Test Security Affidavit, and is required to transcribe a pupil's responses to the format required by the ~~t~~Test. The pupil's parent or guardian is not eligible to be the pupil's ~~a~~ scribe.

(x)~~(t)~~ "Site coordinator" ~~is~~ means an employee of the school district designated by the district coordinator or the superintendent, or a person assigned by an ~~nonpublic school~~ NPS to implement a ~~student~~ pupil's IEP, who oversees the administration of the CELDT at each test site at which the ~~examination~~ Test is given.

(y)~~(u)~~ "Test" ~~is~~ means the CELDT ~~California English Language Development Test~~.

(z)~~(v)~~ "Test ~~E~~examiner" ~~is~~ means an employee of the school district who is proficient in English and has received training specifically designed to prepare him or her to administer the ~~t~~Test and has signed the Test Security Affidavit.

(aa)~~(w)~~ "Test materials" ~~are~~ means materials necessary for administration of the ~~California English Language Development Test~~ CELDT, including, but not limited to, audio-cassettes, test manuals, pupil test booklets, forms for recording pupil responses and ~~background~~ demographic information, video tapes, answer keys, scoring rubrics, special test versions, and any other materials developed and provided by the contractor.

(bb)~~(x)~~ "Variation" ~~is~~ means a change in the manner in which a test is presented or administered, or in how a ~~test taker~~ pupil is allowed to respond, and includes, but is not limited to, accommodations and modifications.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313, 52164.1, 56034, 56365, ~~and~~ 60810 and 62002, Education Code.

Article 2. Administration

§ 11511. Initial and Annual Assessments.

(a) Initial assessments shall be administered as follows:

(1) Any pupil whose primary language is other than English as determined by ~~the~~ a home language survey and who has not previously been identified as an English learner by a California public school ~~or for whom there is no record of results from an administration of an English language proficiency test,~~ shall be assessed for English language proficiency with the ~~test~~ CELDT, or an alternate assessment for eligible pupils as provided in section 11516.6, within 30 calendar days after the date of first enrollment in a California public school, or within 60 calendar days before the date of first enrollment, but not before July 1 of that school year.

(A) Pupils who use American Sign Language or another sign language, as the only language other than English as reported on a home language survey, shall not be assessed for English proficiency.

(b) Annual assessments shall be administered as follows:

(1) The English language proficiency of all currently enrolled English learners shall

be assessed by administering the test during the annual assessment window.

(c) Both ~~I~~initial and ~~A~~annual assessments shall be administered in accordance with the test contractor's directions, except as provided for in ~~S~~sections 11516, 11516.5, and 11516.6.

(d) For both ~~I~~initial and ~~A~~annual assessments, the school district is responsible for the cost of excessive materials ordered by the school district. In no event shall the cost to the school district for replacement of ~~or~~ excessive materials exceed the amount per test booklet and accompanying material that is paid to the test contractor by the California Department of Education (CDE) as part of the contract with the test contractor for the current year.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306~~(a)~~, 313 and 37200, Education Code; 20 U.S.C. Sections 6311 and 6823.

§ 11511.5. Reporting to Parents.

For each pupil assessed using the ~~t~~Test, each school district shall notify parents or guardians of the pupil's results within 30 calendar days following receipt of the official individual test results ~~of testing~~ from the test contractor. The notification shall comply with the requirements of Education Code ~~S~~section 48985.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306~~(a)~~, 313 and 48985, Education Code.

§ 11511.6. Reporting Test Scores.

No aggregate or group scores or reports that are compiled pursuant to Education Code ~~S~~section 60851 shall be reported electronically, in hard copy, or in other media, to any audience other than the school or school district where the pupils were tested, if the aggregate or group scores or reports are composed of three ~~(3)~~ or fewer individual pupil scores. In each instance in which no score is reported for this reason, ~~the~~ a notation shall appear~~: "~~indicating that t~~T~~he number of pupils in ~~this~~ the category is too small for statistical accuracy or privacy protection.~~"~~ In no case shall any group score be reported that would deliberately or inadvertently make public the score or performance of any individual ~~student~~ pupil.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49076, 60810 and 60812, Education Code; 20 U.S.C. Section 1232(g).

§ 11512. District Documentation and Pupil Records.

(a) The school district shall maintain a record of all pupils who participate in each administration of the ~~t~~Test. This record shall include the following information for each administration:

(1) The name of each pupil who took the ~~t~~Test.

(2) The grade level of each pupil who took the ~~t~~Test.

(3) The date on which the administration of the ~~t~~Test was completed for each pupil.

(4) The ~~t~~Test results obtained for each pupil.

(b) The school district shall enter in each pupil's record the following information for each administration of the ~~t~~Test:

(1) The date referred to by subdivision (a)(3).

(2) The pupil's ~~t~~Test results.

(c) The record required by subdivision (a) shall be created and the information required by subdivision (b) of this section shall be entered in each pupil's record prior to the subsequent administration of the ~~t~~Test.

(d) ~~In order to comply with the accountability requirements under Title III of No Child Left Behind, part A, Section 3122 of the Elementary and Secondary Education Act (Public Law 107-110), w~~Whenever a pupil transfers from one school district to another, the pupil's CELDT records including the information specified in ~~S~~section 11512(a) shall be transferred by the sending district within 20 calendar days upon a request from the receiving district where the pupil is now enrolled in accordance with 20 U.S.C. Sections 6841-6842.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306~~(a)~~, 313~~(b)~~, 49068 and 60810~~(d)~~, Education Code; and 20 U.S.C. Sections 6841-6842.

§ 11512.5. Data for Analysis of Pupil Proficiency.

(a) Each school district shall provide the test contractor the following information for each pupil tested for purposes of ~~the analyses~~ analysis and reporting required pursuant

to Education Code sections 60810(c) and 60812, and for accountability requirements ~~under Title III of No Child Left Behind, Part A, Section 3122 of the Elementary and Secondary Education Act (Public Law 107- 110)~~ in accordance with 20 U.S.C. Sections 6841-6842:

(1) Pupil's full name;

(2) Date of birth;

(3) County, district, school code;

(4) Date that testing was completed;

(5) Grade level;

(6) Gender;

(7) Primary language;

(8) Program participation;

(9) ~~Special education and 504 plan status~~ Testing irregularities by domain;

(10) Primary ~~D~~disability;

(11) Race/~~E~~ethnicity;

(12) Date ~~Year~~ first enrolled in a United States school;

(13) ~~School mobility.~~ Month and year of most recent previous test administration [but not prior to the 2006–07 school year];

(14) CELDT scale scores from ~~the~~ most recent previous test administration [but not prior to the 2006–07 school year];

(15) Test Purpose: an initial assessment or an annual assessment;

(16) District and County of residence for pupils with disabilities;

(17) Grade ~~level from~~ in which pupil was enrolled during the most recent previous ~~CELDT~~ Test administration;

(18) Use of ~~test~~ accommodations and/or modifications ~~and/or accommodations~~ by domain(s);

(19) Use of ~~A~~alternate ~~A~~assessment(s) by domain(s); ~~and~~

(20) ~~California School Information Services (CSIS)~~ Statewide Student Identifier (SSID) ~~student number once assigned.~~;

(21) Pupil receives special education services at an NPS based on an IEP plan; and

(22) NPS school code.

(b) The demographic information required by subdivision (a) is for the purposes of aggregate analyses and reporting only.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313, 56034, 56365, 60810 and 60812, Education Code; and 20 U.S.C. Sections 6841-6842.

§ 11513. California English Language Development Test District Coordinator.

(a) On or before April 1, or 90 calendar days before the beginning of the annual assessment window of each school year, the superintendent of each school district shall designate from among the employees of the school district a ~~California English Language Development Test~~ CELDT district coordinator. The superintendent shall notify the test contractor of the identity and contact information for the ~~California English Language Development Test~~ CELDT district coordinator. The ~~California English Language Development Test~~ CELDT district coordinator, or the school district superintendent or his or her designee, shall be available throughout the year and shall serve as the liaison between the school district and the ~~California Department of Education~~ CDE for all matters related to the ~~t~~Test. At the discretion of the district superintendent, the contact information may include an electronic email address.

(b) The ~~California English Language Development Test~~ CELDT district coordinator~~'s~~ shall complete all duties in accordance with instructions from the test contractor. The CELDT district coordinator's responsibilities shall include, but are not limited to, the following duties:

(1) Responding to correspondence and inquiries from the contractor and the CDE in a timely manner and as provided in the contractor's instructions and in these regulations.

(2) Determining school district and individual school ~~t~~Test and test material needs in conjunction with the test contractor.

(3) ~~Overseeing~~ Ensuring delivery, ~~the~~ acquisition, and distribution of ~~t~~Test~~s~~ and test materials to individual schools and sites.

(4) Maintaining security over the ~~t~~Test and test data using the procedure set forth in ~~S~~section 11514. The ~~California English Language Development Test~~ CELDT district coordinator shall sign both the Test Security Agreement and Test Security Affidavit as

set forth in ~~S~~section 11514 with the test contractor prior to receipt of the test materials. A copy of the Test Security Agreement and Test Security Affidavit shall be maintained at the district office ~~for 12 months from the date signed~~ until the end of the initial assessment window each year.

(5) Overseeing the administration of the ~~t~~Test to pupils.

(6) Overseeing the collection and return of all ~~completed~~ test materials and test data to the contractor within the required time periods.

(7) Assisting the test contractor in the resolution of any discrepancies in the test information and materials including, but not limited to, pre-identification files and all errors or discrepancies in pupil-level data files required to comply with section 11512.5.

(8) Ensuring that all test examiners and proctors are trained in accordance with instructions from the test contractor.

(9)~~(8)~~ Ensuring that all test materials are received from ~~school~~ test sites within the school district in sufficient time to satisfy the requirements of subdivision (b)(~~10~~11).

(10)~~(9)~~ Ensuring that all tests and test materials received from ~~school~~ test sites within the school district have been placed in a secure school district location upon receipt of those tests.

(11)~~(10)~~ Ensuring that all test materials are inventoried, packaged, and labeled in accordance with instructions from the test contractor. The completed test materials shall be returned monthly on or before ~~to the test contractor at~~ the date specified ~~monthly~~ by the test contractor, ~~for initial assessments of pupils~~ but no later than ten ~~(10)~~ working days after the close of the appropriate assessment ~~testing~~ window ~~for the annual assessment~~.

(12)~~(11)~~ Ensuring that the tests and test materials are retained in a secure, locked location, in the ~~unopened~~ secure boxes in which they were received from the test contractor, from the time they are received in the school district until the time they are delivered to the test sites.

(13)~~(12)~~ Overseeing the collection of all pupil data to comply with ~~S~~sections 11512 and 11512.5.

(14)~~(13)~~ Immediately notifying the test contractor of any security breaches or testing irregularities in the district before, during, or after the administration of the ~~t~~Test in

accordance with instructions from the test contractor.

(15) After receiving summary reports and files from the contractor, review the files and reports for completeness and accuracy and notify the test contractor and the CDE of any errors, discrepancies, or incomplete information.

(16) Training of CELDT site coordinators to oversee the test administration at each test site.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313 and 60810~~(d)~~, Education Code.

§ 11513.5. California English Language Development Test Site Coordinator.

(a) Annually, the superintendent of the school district, or designee, shall designate a ~~California English Language Development Test~~ CELDT site coordinator for each test site, including, but not limited to, each charter school, each court school, and each school or program operated by a school district, from among the employees of the school district. The ~~California English Language Development Test~~ CELDT site coordinator, or the site principal or his or her designee, shall be available to the ~~California English Language Development Test~~ CELDT district coordinator for the purpose of resolving discrepancies, inconsistencies in materials or reports, and/or other issues that arise as a result of the administration of the ~~t~~Test.

(b) The ~~California English Language Development Test~~ CELDT site coordinator'~~s~~ shall complete all duties in accordance with instructions from the test contractor. The CELDT site coordinator's responsibilities shall include, but not be limited to, all of the following:

(1) Determining site ~~t~~Test and test material needs and communicating the site needs to the district coordinator.

(2) Arranging for test administration at the site.

(3) Completing the Test Security Agreement and Test Security Affidavit prior to the receipt of test materials.

(4) ~~Delivering~~ Providing test materials only to those persons who have been trained to administer the Test and have executed Test Security Affidavits ~~Agreements~~ and who are administering the ~~t~~Test.

(5) Overseeing test security requirements, including collecting and delivering all completed Test Security Affidavit forms to the district office from the test examiners, proctors, and other site personnel involved with testing.

(6) Submitting signed Test Security Affidavits to the district office to be retained until the end of the assessment window each year.

(7)~~(6)~~ Maintaining security over the test materials and test data as required by ~~S~~section 11514.

(8)~~(7)~~ Overseeing the acquisition of test~~s~~ materials from the school district and the distribution of ~~t~~Test~~s~~ to the test examiner(s) on the date of testing in accordance with instructions from the test contractor.

(9)~~(8)~~ Overseeing the administration of the ~~t~~Test to pupils at the test site.

(10)~~(9)~~ Overseeing the collection and return of all testing materials to the ~~California English Language Development Test~~ CELDT district coordinator.

(11)~~(10)~~ Assisting the ~~California English Language Development Test~~ CELDT district coordinator and the test contractor in the resolution of any discrepancies between the number of tests received from the ~~California English Language Development Test~~ CELDT district coordinator and the number of tests collected for return to the ~~California English Language Development Test~~ CELDT district coordinator.

(12) Immediately notifying the CELDT district coordinator of any security breaches or testing irregularities that occur before, during, or after the administration of the CELDT in accordance with instructions from the test contractor that violate the terms of the Test Security Affidavit in section 11514.

(13)~~(11)~~ Overseeing the collection of all pupil data required by ~~S~~sections 11512 and 11512.5.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 313 and 60810~~(d)~~, Education Code.

§ 11514. Test Security.

(a) The ~~California English Language Development Test~~ CELDT site coordinator shall ensure that strict supervision is maintained over each pupil while the pupil is being

administered the ~~t~~Test.

(b) Access to the test materials is limited to pupils being administered the ~~t~~Test and employees of the school district directly responsible for administration of the ~~t~~Test who have signed the Test Security Affidavit set forth in subdivision (g).

(c) All ~~California English Language Development Test~~ CELDT district and test site coordinators shall sign the Test Security Agreement set forth in subdivision (d).

(d) The Test Security Agreement shall be as follows:

CALIFORNIA ENGLISH LANGUAGE DEVELOPMENT TEST

TEST SECURITY AGREEMENT

(1) I will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the test's security.

(2) I will keep on file the names of persons having access to tests and test materials. I will require all persons having access to the materials to sign the Test Security Affidavit that will be kept on file in the school district office.

(3) I will keep the tests and test materials in a secure, locked location, limiting access to only those persons responsible for test security, except on actual testing dates.

By signing my name to this document, I am assuring that I will abide by the above conditions.

By: _____

Title: _____

School District: _____

Date: _____

(e) Each ~~California English Language Development Test~~ CELDT site coordinator shall deliver the tests and test materials only to those persons actually administering the test on the date of testing and only upon execution of the Test Security Affidavit set forth in subdivision (g).

(f) All persons having access to the ~~t~~Test, including, but not limited to, the ~~California English Language Development Test~~ CELDT district coordinator, CELDT site coordinator(s), test examiners, ~~and~~ test proctors, and other district employees shall

acknowledge the limited purpose of their access to the test by signing the Test Security Affidavit set forth in subdivision (g).

(g) The Test Security Affidavit shall be completed by each test examiner and test proctor:

CALIFORNIA ENGLISH LANGUAGE DEVELOPMENT TEST

SECURITY AFFIDAVIT

I acknowledge that I will have access to the test for the purpose of administering the test. I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

(1) I will not divulge the contents of the test to any other person through verbal, written, or any other means of communication.

(2) I will not copy any part of the test or test materials unless necessary to administer the test.

(3) I will keep the test secure until the test is actually distributed to pupils.

(4) I will limit access to the test and test materials by test examinees to the actual testing periods when they are taking the test.

(5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.

(6) I will not disclose the contents of, or the scoring keys to, the test instrument.

(7) I will not review any test questions, passages or other test items with pupils before or after testing.

(8) I will administer the test(s) in accordance with the directions for test administration set forth in the contractor's manual for test administration.

(9) I will return all test materials to the designated ~~California English Language Development Test~~ CELDT site coordinator upon completion of the test.

(10) I will not interfere with the independent work of any pupil taking the test and I will not compromise the security of the ~~t~~Test by means including, but not limited to:

(A) Providing pupils with access to test questions prior to testing.

(B) Copying, reproducing, transmitting, distributing or using in any manner inconsistent with test security all or any portion of any secure ~~California English Language Development Test booklet~~ test materials or documents.

(C) Coaching pupils during testing or altering or interfering with the pupil's responses in any way.

(D) Making answer keys available to pupils.

(E) Failing to follow security rules for distribution and return of secure tests as directed, or failing to account for all secure test materials before, during, and after testing.

(F) Failing to follow test administration directions specified in test administration manuals.

(G) Participating in, directing, aiding, counseling, assisting in, or encouraging any of the acts prohibited in this section.

(11) I have been trained to administer the ~~t~~Test.

Signed: _____

Print Name: _____

Position: _____

School:_____

School District:_____

Date: _____

(h) To maintain the security of the ~~t~~Test, all ~~California English Language Development Test~~ CELDT district and ~~test~~ site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

(i) The security of the test materials that have been duly delivered to the school district by the test contractor is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the test contractor.

(j) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district by the test contractor.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 313, Education Code.

Article 3. Test Variations/Accommodations/Modifications

§ 11516. Variations.

(a) School districts may provide all pupils the following variations:

(1) Test directions that are simplified or clarified in English for the Reading and Writing sections.

(2) Sufficient time to complete the ~~t~~Test as provided in the directions for test administration.

(b) School districts may provide all pupils the following variations if regularly used in the classroom:

(1) Special or adaptive furniture;

(2) Special lighting or acoustics, visual magnifying, or audio amplification equipment;

(3) An individual carrel or study enclosure;

(4) Covered overlay, masks, or other means to maintain visual attention to the ~~t~~Test consistent with contractor's test directions;

(5) Test individually in a separate room, provided that the pupil is directly supervised by an employee of the school district or NPS ~~nonpublic school~~ who has signed the Test Security Affidavit; and

(6) Manually Coded English or American Sign Language to present directions for administration (does not apply to test questions).

(c) If a school district proposed the use of a variation on the ~~t~~Test that is not listed in this section, 11516.5, or 11516.6, the school district may submit a request to the ~~department~~ CDE for review of proposed variation in administering the ~~t~~Test.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306, 313 and 37200, Education Code; and 20 U.S.C. Section 6311.

§ 11516.5. Accommodations.

(a) Pupils with disabilities shall be permitted to take the ~~t~~Test with those accommodations listed in ~~subsections~~ subdivisions (b) through (e), if specified in the pupil's IEP or Section 504 ~~p~~Plan for use on the ~~t~~Test, standardized testing, or for use during classroom instruction and assessments.

(b) Presentation accommodations:

(1) Braille transcriptions provided by the test contractor;

(2) Large print versions reformatted from regular print version;

(3) Test items enlarged through electronic means;

(4) Audio or oral presentation of questions or items for the writing section;

(5) Use of Manually Coded English or American Sign Language to present test questions for the writing section;

(6) Test over more than one day for a ~~t~~Test or ~~t~~Test part to be administered in a single setting;

(7) Supervised breaks within a section of the ~~t~~Test; and

(8) Administration of the ~~t~~Test at the most beneficial time of day to the ~~student~~ pupil.

(c) Response accommodations:

(1) For grades 3-12, Listening, Reading and Writing sections, the ~~student~~ pupil marks responses in test booklet and the responses are transferred to the answer document by a school or school district employee who has signed the Test Security Affidavit;

(2) For grades 2-12, Listening, Reading and Writing sections, responses dictated to a scribe for selected response items or multiple-choice items;

(3) For kindergarten and grades 1-12, Speaking section, responses dictated to a scribe for selected response items or multiple-choice items;

(4) For the Writing section, responses dictated to a scribe, audio recorder or speech to text converter and the pupil indicates all spelling and language conventions; and

(5) For the Writing section, use word processing software with the spell and grammar check tools turned off.

(d) For the Writing section, use of an assistive device that does not interfere with the independent work of the pupil.

(e) Setting accommodations include:

(1) Test at home or in hospital, by a test examiner.

(f) If the eligible pupil's ~~or adult student's~~ IEP team or Section 504 ~~p~~Plan proposes a variation for use on the ~~t~~Test that has not been listed in this section, 11516, or 11516.6, the school district may submit a request to the ~~department~~ CDE for review of the

proposed variation in administering the ~~t~~Test.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306~~(a)~~, 313 and 37200, Education Code; and 20 U.S.C. Section 6311.

§ 11516.6. Modifications for Pupils with Disabilities.

(a) Pupils with disabilities shall be permitted to take the ~~t~~Test with the following modifications if specified in the pupil's IEP or Section 504 ~~p~~Plan for use on the ~~t~~Test, standardized testing, or for use during classroom instruction and assessments.

(b) The following are modifications because they fundamentally alter what the examination measures or affect the comparability scores. Modifications include, but are not limited to, the following procedures:

(1) For the Reading section, questions or items read aloud to the ~~student~~ pupil or audio presentation;

(2) For the Listening~~/~~, Speaking and Reading ~~section~~ domains, use of Manually Coded English or American Sign Language to present test questions;

(3) For the Writing section, essay responses dictated orally, in Manually Coded English, or in American Sign Language to a scribe, audio recorder, or speech to test converter (scribe provides spelling, grammar, and language conventions);

(4) Use of a dictionary;

(5) For the Writing section, use of word processing software with spell and grammar check tools enabled on the essay responses;

(6) For the Writing section, use of an assistive device that interferes with the independent work of the ~~student~~ pupil, including mechanical or electronic devices that are not used solely to record the pupil's responses, including, but not limited to, transcribers, scribes, voice recognition or voice-to-text software, and that identify a potential error in the pupil's response or that correct spelling, grammar, or conventions.

(c) A pupil who takes the CELDT ~~test~~ with one or more modifications shall receive the LOSS ~~a scored marked "not valid"~~ for the sections of the ~~t~~Test on which modifications were used ~~accompanied by the notation that a score marked "not valid" was obtained through use of alternate procedures which may affect the validity of the test~~.

(d) If the pupil's ~~or adult student's~~ IEP or Section 504 ~~p~~Plan proposes a variation for use on the ~~t~~Test that has not been listed in this section, 11516, or 11516.5, the school district may submit a request to the CDE for review of proposed variations in administering the ~~t~~Test.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 306~~(a)~~, 313 and 37200, Education Code; and 20 U.S.C. Section 6311.

§ 11516.7. Alternate Assessments for Pupils with Disabilities.

(a) A p~~P~~upil~~s~~ with a disabilit~~ies~~y who ~~are~~ is unable to participate in the entire CELDT or a section of the ~~t~~Test with variations, accommodations, or modifications shall be administered an alternate assessment~~s~~ in lieu of the CELDT to determine his/her level of ~~for~~ English language proficiency in each of the required domains as set forth in the pupil's IEP or Section 504 Plan, and consistent with 34 C.F.R. 200.6.

(b) A p~~P~~upil~~s~~ who participates in the CELDT ~~Test~~ Program using alternate assessment procedures shall receive the LOSS ~~a score~~ ~~marked not valid~~ on the Student Performance Level Report provided by the test contractor for the sections of the test in which alternate assessments were administered.

NOTE: Authority cited: Section 33031, Education Code. Reference: 20 U.S.C. Section 6311; and 34 C.F.R. Section 300.138(b)(1)(2).

Article 4. Apportionment

§ 11517. Apportionment to School Districts.

The amount of funding to be apportioned to the school district for the costs of administering the ~~t~~Test shall be the amount established by the ~~State Board of Education~~ SBE to enable school districts to meet the requirements of administering the ~~t~~Test to pupils in kindergarten to grade 12, inclusive, in the school district. The number of ~~t~~Tests administered shall be determined by the certification of the school district superintendent pursuant to ~~S~~section 11517.

NOTE: Authority cited: Sections 33031 and 60810, Education Code. Reference: Sections 313 and 60810, Education Code.

§ 11517.5. Apportionment Information Report.

(a) Annually, each school district shall receive an Apportionment Information Report (Report) that shall include the following information for those ~~t~~Tests administered during the previous fiscal year (July 1 through June 30):

(1) The number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration.

(2) The ~~Department~~ CDE shall distribute the Reports to districts no later than November 15 ~~following each testing window~~ for the prior school year's CELDT administration.

(b) To be eligible for apportionment payments, a school district must meet the following conditions:

(1) The superintendent of each school district has certified the accuracy of the ~~apportionment information r~~Report for ~~t~~Tests administered during the prior fiscal year (July 1 through June 30), which is either:

(A) Postmarked by December 31, or

(B) If postmarked after December 31, the ~~apportionment information r~~Report must be accompanied by a waiver request as provided by Education Code ~~S~~section 33050. For those ~~apportionment information r~~Reports postmarked after December 31, apportionment payment is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the ~~t~~Tests were administered.

(C) The amount of funding to be apportioned to the school district for the ~~t~~Tests shall be calculated by multiplying the amount per administration established by the ~~State Board of Education~~ SBE to enable school districts to meet the requirements of Education Code ~~S~~section 60810 by the number of pupils in the school district tested with the ~~CELDT~~ Test during the previous fiscal year as determined by the ~~apportionment information r~~Report and as certified by the school district superintendent pursuant to subdivision (b)(1)(B).

NOTE: Authority cited: Sections 33031 and 60810, Education Code. Reference: Sections 313 and 60810, Education Code.

06-13-11 [California Department of Education]

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
Education	Amy Tang-Paterno	916-322-660
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
California English Language Development Test		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
- ☐ g. Impacts individuals
- ☑ h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) The proposed regulations would not impose any additional costs to the private sector.

(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. 12/2008)

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. 12/2008)

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 an 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 boxes1 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 _____, 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 $ _____ 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 _____

   ☐ 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;

   ☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 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 regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☑ 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 $ _____ 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 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.

FISCAL OFFICER SIGNATURE		DATE 6-15-11
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE		DATE 6/21/2011
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department 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 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

AAV of SBE Item 7 Attachment 4

This page is the Accessible Alternative Version (AAV) of Item 7 Attachment 4 from the July 13-14, 2011 State Board of Education (SBE) meeting.

This page is the Accessible Alternative Version (AAV) of Item 7 Attachment 4 from the July 13-14, 2011 State Board of Education (SBE) meeting. The scanned Item 7 Attachment 4 (PDF; 312KB; 4pp.) version is considered to be the official version of the document.

State of California -- Department of Finance
Economic and Fiscal Impact Statement
(Regulations and Orders)

Department Name

Education

Contact Person

Amy Tang-Paterno

Telephone Number

916-322-6630

Descriptive Title From Notice Register or Form 400

California English Language Development Test

Economic Impact Statement

Estimated Private Sector Cost Impacts

None

Fiscal Impact Statement

Fiscal Effect on Local Government

No fiscal impact exists because this regulation does not affect any local entity or program.

Fiscal Effect on State Government

No fiscal impact exists because this regulation does not affect any State agency or program.

Fiscal Effect on Federal Funding of State Programs

No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

Fiscal Officer Signature

(signed 6/21/2011)

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

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-1

ITEM #WC-1

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2010 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Moorpark Unified School District** for **IvyTech Charter School** to waive California Code of Regulations, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (3 tracks; 175 days). Waiver Number: 21-4-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval with the following conditions: 1) The charter school will operate three tracks, each will offer a minimum of 175 days; 2) For each track, the charter school will offer the minimum annual instructional minutes as specified by California *Education Code* (*EC*) Section 47612.5; 3) No track will have fewer than 55 percent of its school days completed prior to April 15; and 4) Average daily attendance (ADA) will be calculated separately for each track by the method set forth in *California Code of Regulations* Title 5 (5 *CCR*), Section 11960, and then the resulting attendance figures will be totaled. Because this waiver is granted for two consecutive years, *EC* 33051(b) will apply, and the district will not be required to reapply annually if information contained in the request remains current.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its July 2000 meeting, the State Board of Education (SBE) approved SBE's Policy #00-05 Charter School ADA: Alternative Calculation Method, available at http://www.cde.ca.gov/re/lr/wr/documents/charterschoolada.doc, which applies to this waiver request. Many multi-track calendar waivers for charter schools have been approved by the SBE in the past nine years.

SUMMARY OF KEY ISSUES

Title 5, Section 11960 (a) defines regular ADA in a charter school, and establishes the calculation for determining ADA. The calculation divides the total number of pupil-days attended by the total number of days school was actually taught. This section also requires a proportional reduction in a charter school's funding for each day less than 175 days if the school operates fewer than 175 days in any fiscal year.

SUMMARY OF KEY ISSUES (Cont.)

As referenced in the SBE Policy #00-05:

> "attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school. For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

A multi-track calendar waiver is typically requested by charter schools that operate on a multi-track, year-round education calendar so that they can claim the full ADA. In a multi-track calendar, the total number of days that school is taught may actually exceed 200 days. However, each track of students is only provided instruction for the number of days in a given track, typically 175 or 180 days. Therefore, a waiver is necessary for a multi-track charter school to separately calculate ADA in each track, rather than for the school as a whole.

Moorpark Unified School District (Moorpark USD) is requesting this waiver on behalf of IvyTech Charter School to allow the charter school to operate a three-track calendar. The total number of days this school is actually teaching per year is 195. However, each track of students will be offered a minimum of 175 days of instruction. The reason for operating a multi-track calendar is that the school's target population, comprised mainly of individualized learning students, benefit from a calendar with a staggered start date. This enables them to commence the school year on a schedule that works well with their existing life circumstances, such as release from correctional facilities, credit recovery, dropout recovery, and meeting the unique academic needs of this student population. Ivy Tech opened to students beginning in the 2010–2011 school year. As this is the first year of operation, Ivy Tech does not have an Academic Performance Index. The school serves a population of students released from state and county correctional facilities, independent study students, credit recovery students, dropout recovery students and students preparing for the General Education Diploma exam.

A waiver of this section will allow IvyTech Charter School to operate three tracks with a minimum of 175 days of instruction and separately calculate the ADA for each track, rather than for the school as a whole. This is consistent with how ADA is calculated for a regular school with multiple tracks. The charter has proven that no track has fewer than 55 percent of its school days occurring prior to April 15, one criterion of the SBE waiver policy.

On the basis of this analysis and with the conditions as listed, the Department recommends approval of this waiver. Because this waiver is granted for two consecutive years, *EC* 33051(b) will apply, and the district will not be required to reapply annually if information contained on the request remains current.

SUMMARY OF KEY ISSUES (Cont.)

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a).The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: IvyTech Charter School has a widely diverse student population of 96 and is serving students in the urban/rural communities of Ventura and Los Angeles Counties.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011 to June 30, 2013

Local board approval date(s): April 11, 2011

Public hearing held on date(s): March 29, 2011

Bargaining unit(s) consulted on date(s): The charter school does not have a bargaining unit.

Name of bargaining unit/representative(s) consulted: The charter school does not have a bargaining unit.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate): The charter school does not have a bargaining unit.

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (newsletter/website)

Advisory committee(s) consulted: Parent Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 22, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: General Waiver Request (4 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 2: 2011–2012 IvyTech Charter School Calendar (1 Page)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _XX_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	6	7	3	9	4	0

Local educational agency: Moorpark Unified School District for Ivy Tech Charter School jb 5/5/11	Contact name and Title: Jacqueline Gardner	Contact person's e-mail address: msgardner@ivytechcs.org
Address: 95 East High Street (City) Moorpark (State) CA (ZIP) 93021		Phone (and extension, if necessary): 805 222 5188 Fax Number: 805 426 8245
Period of request: (month/day/year) From: 7/1/2011 To: 6/30/20~~16~~ 2013 cs	Local board approval date: (Required) 4/11/2011	Date of public hearing: (Required) 3/29/2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR 5*

   Topic of the waiver: 3-track year round Independent Study school calendar

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? X No __ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): ~~n/a~~ Charter does not have a bargaining unit jb 5/5/11

   Name of bargaining unit and representative(s) consulted: ~~n/a~~

   The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): IvyTech Charter School does not have a labor association

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* Newsletter / Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Parent Advisory Committee

   Date the committee/council reviewed the waiver request: 3/22/11

   Were there any objection(s)? No _XX_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

California Code of Regulations, Title 5, Section 11960

a) As used in *Education Code* Section 47612, "attendance" means the attendance of charter school pupils while engaged in educational activities required of them by their charter schools, on days when school is actually taught in their charter schools. "~~Regular average daily attendance" shall be computed by dividing a charter school's total number of pupil-days of attendance by the number of calendar days on which school was actually taught in the charter school.~~ For purposes of determining a charter school's total number of pupil-days of attendance, no pupil may generate more than one day of attendance in a calendar day.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   See Attached.

8. Demographic Information:
   IvyTech Charter School has a student population of 96 with a waitlist and is serving the urban / rural communities of Ventura and Los Angeles Counties.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

During IvyTech Charter Schools first year of operations, we have identified the need for a more flexible school calendar due to our unique student population mix. The following is a list of identifiable populations that we serve along with how a more flexible schedule with benefit them.

- Students released from state and county correctional facilities - Parents and Probation officers are looking for shorter blocks of vacation time to minimize the amount of free un-supervised time students have.

- Home Schoolers – Parents have requested additional assignments during vacation times such as winter break, spring break and this pending summer break.

- Credit Recovery students – Students who are deficient in a large number of credits, may feel daunted and discourage from attempting to make up them up. By IvyTech Charter School offering a more flexible schedule these student are more likely to find the necessary time, between family commitments and work, to make up the needed credits for graduation.

- Dropout Recovery / GED Prep – Several students in this target population have expressed the desire to pursue a traditional High School diploma and/or General Education Diploma (GED). IvyTech feels that given long periods of downtime could result in these students not returning to complete the necessary course of study.

IvyTech Charter School is an open enrollment school that allows student to start at any time of the year. Because the populations listed above do not identify all IvyTech Students, we have a more traditional track starting the end of August through June. This allows IvyTech to provide our students with a flexible-learning environment and provides them the opportunity to be successful in achieving their individual educational goals.

As a result, IvyTech Charter School expects to see increased student performance as well as an increase in student attendance. This will also enhance our relationship with the community who are looking for program enhancements as well as provide our teachers with professional development opportunities and built in time to evaluate and improve course offerings.

Students Board Policy 25

Multi-track Calendar and Track changes

Ivy Tech Charter School runs a two-track calendar (See attached) named track A and track B. Each track has a minimum of 175 days of instruction/assignments.

Naming of Track
IvyTech Charter School will use an alphanumeric naming sequence for tracks starting with "A."

Length of Track
Each track will contain a minimum of 175 days of instruction.

Start dates
Track "A" will have a start date of July 1st.
Track "B" will have a start date of August 1st.
Track "C" will have a start date of August 29th.

Student Enrollment
Students are not limited to enrolling at the beginning of a Track. Ivy Tech Charter School has a year-round open enrollment. Student Enrollment will be limited to Fridays.

Track Assignment Procedures
Students starting in July will be place on Track "A."
Students starting in August will be place on Track "B."

All Students will be assigned to Track "C" unless they are starting instruction in the beginning of July or August.

Parent Request for Track Change
Track changes are allowed under the following conditions:

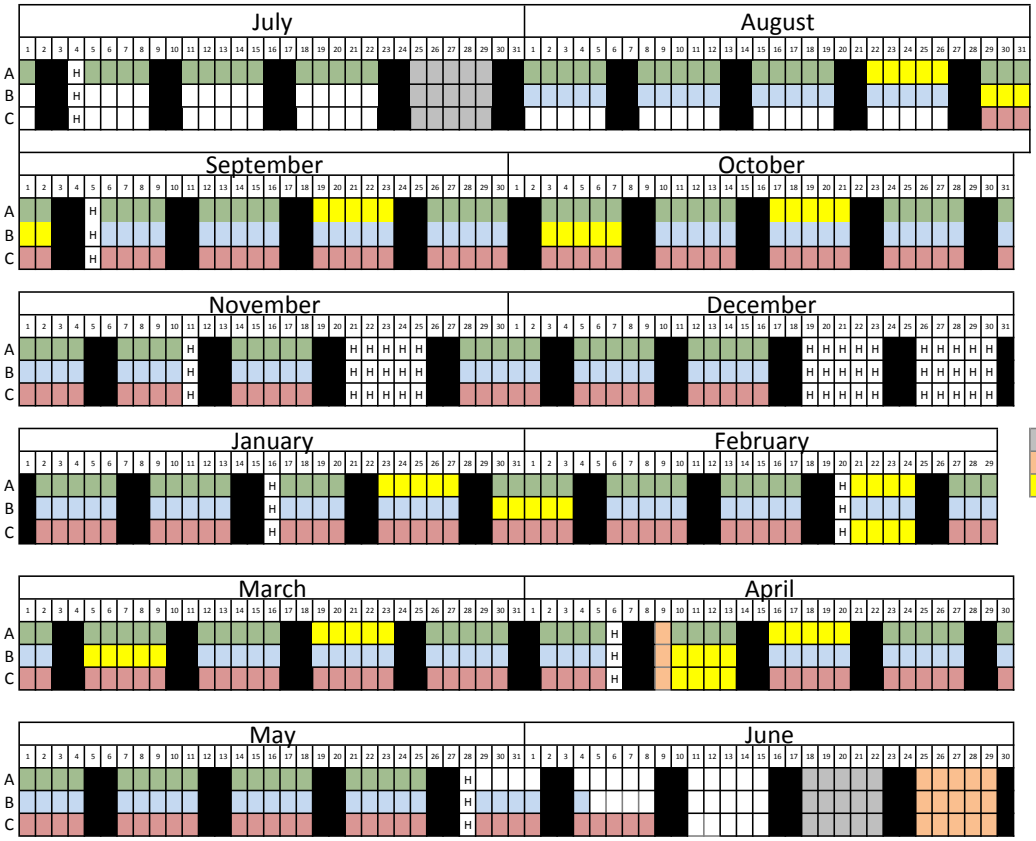
- A Parent requests a track change and completes the request form.
- The Track change request is received by Ivy Tech prior to:
    - November 1st for a Nov 7th change
    - December 1st for a December 12th change.

All track changes must be approved by the principal

Attendance
No student may be claimed for more than 175 days of attendance through the California Board of Education California Code of Regulations, Title 5, Section 11960.

Adopted: 4/11/2011

IvyTech Charter School Calendar
2011-2012



	Tracks		
	A	B	C
July	15	0	0
Aug	18	20	3
Sep	16	19	21
Oct	16	16	21
Nov	16	16	16
Dec	12	12	12
Sem 1	93	83	73
Jan	16	19	21
Feb	16	17	16
Mar	17	17	22
Apr	14	15	15
May	19	22	22
Jun	0	2	6
	175	175	175

School closed
Prof. Development
Track Break

Year - Round Online Schools

INDEPENDENCE DAY	JULY 4
LABOR DAY	SEPTEMBER 5
VETERANS DAY	NOVEMBER 11
THANKSGIVING RECESS	NOVEMBER 21 - 25
WINTER RECESS	DECEMBER 19 - 30
MARTIN LUTHER KING DAY	JANUARY 16
PRESIDENTS' DAY	FEBRUARY 20
Good Friday (Local Holiday)	April 6
MEMORIAL DAY	MAY 28

Attendance Periods

Track A

LP1 July 1 - July 22 - 15 days
LP2 Aug 1 - Aug 19 - 15 days
LP3 Aug 29 - Sept 30 - 19 days
LP4 Oct 3 - Nov 4 - 20 days
LP5 Nov 7 - Dec 9 - 19 days
LP6 Dec 12 - Jan 20 - 19 days
LP7 Jan 30 - Mar 2 - 20 days
LP8 Mar 5 - Apr 5 - 19 days
LP9 Apr 10 - May 11 - 19 days
LP10 May 14 - May 25 - 10 days

Track B

LP1 Aug 1 - Aug 26 - 20 days
LP2 Sept 6 - Sept30 - 19 days
LP3 Oct 10 - Nov 4 - 20 days
LP4 Nov 7 - Dec 9 - 19 days
LP5 Dec 12 - Jan 20 - 19 days
LP6 Jan 23 - Feb 24 - 19 days
LP7 Feb 27 - Mar 30 - 20 days
LP8 Apr 2 - May 4 - 19 days
LP9 May 7 - June 4 - 20 days

Track C

LP1 Aug 29 - Sep 23 - 19 days
LP2 Sept 26 - Oct 21 - 20 days
LP3 Oct 24 - Nov 18 - 19 days
LP4 Nov 28 - Jan 6 - 20 Days
LP5 Jan 9 - Feb 3 - 19 days
LP6 Feb 6 - Mar 9 - 20 days
LP7 Mar 12 - Apr 5 - 19 days
LP8 Apr 16 - May 11 - 20 days
LP9 May 14 - June 8 - 19 days

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-2

ITEM #WC-2

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Capistrano Unified School District** to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, Section 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from 25:1 to a 27.5:1 pupil-to-teacher ratio at **Capistrano Connections Academy Charter School**. Waiver Number: 31-3-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval of this waiver with the following conditions: (1) if Capistrano Connections Academy (CapoCA) does not meet its Academic Performance Index (API) growth target for 2010–11 and 2011–12, the waiver will not be recommended for renewal; and (2) because the waiver is granted for two years less one day, California *Education Code* (*EC*) Section 33051(b) will not apply, and the charter school will be required to reapply for the waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In April 2001, the California State Board of Education (SBE) adopted Waiver Policy #01-03, Independent Study: Average Daily Attendance (ADA)-to-Teacher Ratio, available at http://www.cde.ca.gov/re/lr/wr/documents/independentstudy.doc, which allows placement on the consent calendar any request to increase the pupil-to-teacher ratios for district and county independent study programs up to 10 percent over what is specified by law.

Although CapoCA is a charter school, it meets the same criteria as the other local educational agencies covered by Waiver Policy #01-03.

SUMMARY OF KEY ISSUES

EC Section 51745.6, and *California Code of Regulations*, Title 5, Section 11704, and portions of Section 11963.4(a)(3), establish minimum requirements for ADA-to-teacher ratios in independent study that apply to non-classroom based charter schools. In essence, these sections require that the ratio meet the following criteria:

SUMMARY OF KEY- ISSUES (Cont.)

1. The ratio cannot exceed the equivalent ratio of ADA-to-full-time certificated employees for all other educational programs operated by the high school or unified school district with the largest ADA of pupils in that county.

2. In a charter school, the ratio may be calculated by using a fixed ADA-to-certificated-employee ratio of 25:1, or by a ratio of less than 25 pupils per certificated employee.

CapoCA is requesting to increase the ADA-to-teacher ratio from 25:1 to 27.5:1. This constitutes a 10 percent increase. CapoCA requests this increase to alleviate the impact of reduced revenue that the charter received due to the statewide budget crisis, and that additional staffing costs will have a detrimental effect on school instructional operations and the ability to provide necessary services.

Approval of this request will allow CapoCA to protect its instructional programs and enrichment offerings. CapoCA has made assurances that it will expend all revenues generated by students in independent study on services for the students.

In the 2009–10 school year, CapoCA had a 2010 Growth API score of 793 constituting a 21 point growth, thus exceeding its API growth target of 5 points by 16 points. CapoCA has three significant subgroups: Hispanic, White, and socioeconomically disadvantaged students. All three groups exceeded their API performance targets. The school also made the 2010 Adequate Yearly Progress and met all corresponding criteria.

The Department recommends approval of this waiver with the above conditions.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) the educational needs of the pupils are not adequately addressed; (2) the waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) the appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) pupil or school personnel protections are jeopardized; (5) guarantees of parental involvement are jeopardized; (6) the request would substantially increase state costs; and (7) the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: CapoCA currently serves 1,350 students. The school is authorized by the Capistrano Unified School District, which currently serves 51,451 pupils in south Orange County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 29, 2012 (two years less one day)

Local board approval date(s): March 8, 2011

Public hearing held on date(s): March 8, 2011

Bargaining unit(s) consulted on date(s): CapoCA does not have a bargaining unit.

Name of bargaining unit/representative(s) consulted: CapoCA does not have a bargaining unit.

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☐ posting at the United States Post Office

Advisory committee(s) consulted: CapoCA Governing Board

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: January 25, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	4	6	4

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Capistrano Unified School District on behalf of Capistrano Connections Academy	Frances Sassin Business Manager, California Connections Academy schools and Julie Hatchel, Assistant Superintendent, Education Services, Capistrano Unified School District	fsassin@sbcglobal.net jhatchel@capousd.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
33122 Valle Rd	San Juan Capistrano	CA	92675	(949) 461-1667 X328 Fax Number: (949) 425-8791

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2010 To: 6/~~30~~ 6/29/2012	March 8, 2011	March 8, 2011

DV 4/15/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR: BOTH*

California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704, and portions of 11963.4(a)(3),
Topic of the waiver: Pupil to Teacher Ratio for Independent Study Charter Schools

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? _X_ No __ Yes If yes, please complete required information below: See comment below

Bargaining unit(s) consulted on date(s):

Name of bargaining unit and representative(s) consulted:

The position(s) of the bargaining unit(s): __ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X__ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

The Board of Directors (2 parents included) of Capistrano Connections Academy approved the waiver request at a board meeting.
(2 parents on Board) per J. Hatchell kak 4/5/11
Date the committee/council reviewed the waiver request: January 25, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704 and portions of 11963.4(a)(3) as follows:

…and the ratio of average daily attendance for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of ~~25:1~~ 27.5:1

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Capistrano Connections Academy (CapoCA) provides a high quality virtual education to students in Southern California. Teachers work primarily from the school office but serve students in a large geographic area using a variety of technological tools. An increase in the pupil to teacher ratio will allow cost savings while maximizing the resources that a virtual school can offer to students. Given the budget constraints caused by the current financial crisis, CapoCA proposes to implement needed budget cuts by fully utilizing such efficiencies offered by on-line education. Despite fiscal challenges, if any additional revenue results from the increased ratio, it will be directed back to services which support student learning in the virtual environment, such as enhanced curricular offerings, increased test preparation services, increased remediation and intervention services for struggling students, and/or increased access to technology tools.

8. Demographic Information:
The charter school has a student population of 1238 (as of October, 2010) and is located in and sponsored by Capistrano Unified School District, a suburban district in Orange County. However, as a virtual school, the charter enrolls students from all areas of Orange County and contiguous counties.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-3

ITEM # WC-3

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Fort Bragg Unified School District** for Fort Bragg High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270). Waiver Number: Fed-61-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270) (Perkins Act) requires local educational agencies (LEAs) whose allocations are less than $15,000 to enter into a consortium with other LEAs for the purpose of meeting the $15,000 minimum grant requirement. Section 131(c)(2) of the Perkins Act permits states to waive the consortium agreement if the LEA is in a rural, sparsely populated area and is unable to join a consortium.

The State Board of Education (SBE) Waiver Policy #01-01: Carl D. Perkins Career and Technology Education Improvement Act: Consortium Requirement for Minimum Allocation, available at http://www.cde.ca.gov/re/lr/wr/documents/perkinspolicyr.doc, has criteria defining rural that are specifically tied to the National Center for Education Statistics (NCES) Locale Codes numbers 23, 31, 32, 33, 41, 42, or 43.

The SBE has approved all waivers of this statute that have been presented to it to date.

SUMMARY OF KEY ISSUES

Located in Mendocino County, Fort Bragg Unified School District (USD) is a small unified school district with one high school. The district serves the town of Fort Bragg and the surrounding rural communities. Fort Bragg is located on the coast of California and is 129 miles west of Williams. The town of Fort Bragg has a population of approximately 6,540.

SUMMARY OF KEY ISSUES (Cont.)

Fort Bragg High School has a total enrollment of 550 and an Academic Performance Index of 747 for 2010. Fort Bragg USD has a locale code of 33 (town, remote) per the NCES, thus meeting one criterion established by the SBE Waiver Policy #01-01.

The other criterion for qualifying for this waiver is demonstration that the LEA cannot form or join a consortium that handles the Perkins funds. There is no other district in the local area willing to join in a consortium with Fort Bragg USD. Fort Bragg USD is seeking this waiver to function independently in order to meet the needs of the students in the district.

The Department recommends approval of this waiver allowing Fort Bragg USD to receive $14,143 that will be used to help improve the Career Technical Education programs in the district.

Authority for Waiver: Federal Waiver Authority (Public Law 109-270) Section 131(c)(2)

Period of request: July 1, 2011, to June 30, 2015

Local board approval date(s): June 9, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

Approval will enable Fort Bragg USD to receive an annual Perkins Act allocation of $14,143. The waiver has no significant effect on the distribution of Perkins Act funds statewide.

ATTACHMENT(S)

Attachment 1: Federal Waiver Request (1 page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

FEDERAL WAIVER REQUEST

Carl D. Perkins Program Waiver

FW-1 (Rev. 10-2-2009) **http://www.cde.ca.gov/re/lr/wr/**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Room 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	3	6	5	5	6	5

Local educational agency: Fort Bragg Unified School District Name of school(s): **Fort Bragg High School**	Contact name and Title: **Donald Armstrong, Superintendent**	Contact person's e-mail address: Mcalvert@fbusd.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): **707-961-2850 ext. 3525** Fax number: **707-964-5002**
300 Dana Street	**Fort Bragg**	**CA**	**95437**	

Period of request: (month/day/year) (4 years maximum) From: **7/1/2011** To: **6/30/2015**	Local board approval date: (Required) **June 9, 2011**

LEGAL CRITERIA

1. Authority for the waiver: Federal Code Section: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Public Law 109-270 Section 131(c)(2).

2. Federal Code Section to be waived: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Public Law 109-270 Section 131(c)(1), that 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.

3. Review the revised 2009 SBE Waiver Policy at: http://www.cde.ca.gov/re/lr/wr/documents/perkinspolicyr.doc

Section 131(d)(2) of the Career and Technical Education and Improvement Act of 2006 permits states to waive the consortium requirement in any case in which the local agency:

(a) is in a rural, sparsely populated area, or is a public charter school operating secondary vocational and technical education programs;

Circle the NCES Locale Code for your school(s): 23 31 32 **33** 41 42 43

jb 6/1/11 **town remote**

(b) demonstrates it is unable to enter into a consortium to participate in the Perkins funding.

Please document your efforts:

4. Demographic Information:
Fort Bragg High has a student population of **550** and is located in a **RURAL** (*urban, rural, or small city etc.* ***FORT BRAGG*** *in* ***MENDOCINO*** County.

District or County Certification – *I hereby certify that the information provided on this application is correct.*

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-4

ITEM # WC-4

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Shoreline Unified School District** for **Tomales High School** for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270). Waiver Number: Fed-62-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270) (Perkins Act) requires local educational agencies (LEAs) whose allocations are less than $15,000 to enter into a consortium with other LEAs for the purpose of meeting the $15,000 minimum grant requirement. Section 131(c)(2) of the Perkins Act permits states to waive the consortium agreement if the LEA is in a rural, sparsely populated area and is unable to join a consortium.

The State Board of Education (SBE) Waiver Policy #01-01: Carl D. Perkins Career and Technology Education Improvement Act: Consortium Requirement for Minimum Allocation, available at http://www.cde.ca.gov/re/lr/wr/documents/perkinspolicyr.doc, has criteria defining rural that are specifically tied to the National Center for Education Statistics (NCES) Locale Codes numbers 23, 31, 32, 33, 41, 42, or 43.

The SBE has approved all waivers of this statute that have been presented to it to date.

SUMMARY OF KEY ISSUES

Located in Marin County, Shoreline Unified School District (USD) is a small unified school district with two high schools. The district serves the town of Tomales and the surrounding rural communities. Tomales is located 66.9 miles north of San Francisco. The town of Tomales has a population of approximately 210.

SUMMARY OF KEY ISSUES (Cont.)

Tomales High School has a total enrollment of 133 and an Academic Performance Index of 746 for 2010. Shoreline USD has a locale code of 42 (rural, distant) per the NCES, thus meeting the criterion established by the SBE Waiver Policy #01-01.

The other criterion for qualifying for this waiver is demonstration that the LEA cannot form or join a consortium that handles the Perkins funds. There is no other district in the local area willing to join in a consortium with Shoreline USD. Shoreline USD is seeking this waiver to function independently in order to meet the needs of the students in the district.

The Department recommends approval of this waiver allowing Shoreline USD to receive $4,034 that will be used to help improve the Career Technical Education programs in the district.

Authority for Waiver: Federal Waiver Authority (Public Law 109-270) Section 131(c)(2)

Period of request: July 1, 2011, to June 30, 2015

Local board approval date(s): March 17, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

Approval will enable Shoreline USD to receive an annual Perkins Act allocation of $4,034. The waiver has no significant effect on the distribution of Perkins Act funds statewide.

ATTACHMENT(S)

Attachment 1: Federal Waiver Request (1 page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

FEDERAL WAIVER REQUEST

Carl D. Perkins Program Waiver

FW-1 (Rev. 10-2-2009) **http://www.cde.ca.gov/re/lr/wr/**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Room 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	1	3	4	3	1	0

Local educational agency: **Shoreline Unified School District** Name of school(s): **Tomales High School**	Contact name and Title: **Heidi Costanzo,** **Administrative Secretary**	Contact person's e-mail address: hcostanzo@marin.k12.ca.us
Address: (City) (State) (ZIP) **PO Box 25 – 3850 Irvin Road Tomales CA 94971**		Phone (and extension, if necessary): **707-878-2286 ext. 202** Fax number: **707-878-2787**
Period of request: (month/day/year) (4 years maximum) From: **07/01/11** To: ~~**06/30/12**~~ 06/30/15 **per HNS 4/12/11**	Local board approval date: (Required) **03/17/11**	

LEGAL CRITERIA

1. Authority for the waiver: Federal Code Section: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Public Law 109-270 Section 131(c)(2).

2. Federal Code Section to be waived: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Public Law 109-270 Section 131(c)(1), that 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.

3. Review the revised 2009 SBE Waiver Policy at: http://www.cde.ca.gov/re/lr/wr/documents/perkinspolicyr.doc

Section 131(d)(2) of the Career and Technical Education and Improvement Act of 2006 permits states to waive the consortium requirement in any case in which the local agency:

(a) is in a rural, sparsely populated area, or is a public charter school operating secondary vocational and technical education programs;

Circle the NCES Locale Code for your school(s): 31 ~~32~~ 33 41 **(42)** 43

Per NCES Rural, district

(b) demonstrates it is unable to enter into a consortium to participate in the Perkins funding.

Please document your efforts:

4. Demographic Information:
(*District/school/**program)*** **has a student population of _181___and is located in a _rural___(*urban, rural, or small city etc.* ___ *in* _*Marin* County.**

District or County Certification – *I hereby certify that the information provided on this application is correct.*

Signature of Superintendent or Designee:	Title: **Superintendent**	Date: **March 17th 2011**

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-5

ITEM # WC-5

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Federal Waiver**

SUBJECT	
Request by **Sutter Union High School District** for **Sutter High School** for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270). Waiver Number: Fed-60-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270) (Perkins Act) requires local educational agencies (LEAs) whose allocations are less than $15,000 to enter into a consortium with other LEAs for the purpose of meeting the $15,000 minimum grant requirement. Section 131(c)(2) of the Perkins Act permits states to waive the consortium agreement if the LEA is in a rural, sparsely populated area and is unable to join a consortium.

The State Board of Education (SBE) Waiver Policy #01-01: Carl D. Perkins Career and Technology Education Improvement Act: Consortium Requirement for Minimum Allocation, available at http://www.cde.ca.gov/re/lr/wr/documents/perkinspolicyr.doc, has criteria defining rural that are specifically tied to the National Center for Education Statistics (NCES) Locale Codes numbers 23, 31, 32, 33, 41, 42, or 43.

The SBE has approved all waivers of this statute that have been presented to it to date.

SUMMARY OF KEY ISSUES

Located in Sutter County, Sutter Union High School District (HSD) is a small unified school district with one high school. The district serves the town of Sutter and the surrounding rural communities. Sutter is located 8.9 miles west of Yuba City. The town of Sutter has a population of approximately 3,000.

SUMMARY OF KEY ISSUES (Cont.)

Sutter High School has a total enrollment of 650 and an Academic Performance Index of 736 for 2010. Sutter Union HSD has a locale code of 23 (suburb, small) per the NCES, thus meeting the criterion established by the SBE Waiver Policy #01-01. A district in a rural code 23 may be considered rural if the LEA meets the following criteria, located more than five miles from a city with a population of 85,000 or less, located in a suburb with a population of 7,000 or less, and LEA has a total enrollment of less than 1,000 students district wide.

The other criterion for qualifying for this waiver is demonstration that the LEA cannot form or join a consortium that handles the Perkins funds. There is no other district in the local area willing to join in a consortium with Sutter Union HSD. Sutter Union HSD is seeking this waiver to function independently in order to meet the needs of the students in the district.

The Department recommends approval of this waiver allowing Sutter Union HSD to receive $10,410 that will be used to help improve the Career Technical Education programs in the district.

Authority for Waiver: Federal Waiver Authority (Public Law 109-270) Section 131(c)(2)

Period of request: July 1, 2011, to June 30, 2015

Local board approval date(s): April 12, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

Approval will enable Sutter Union HSD to receive an annual Perkins Act allocation of $10,410. The waiver has no significant effect on the distribution of Perkins Act funds statewide.

ATTACHMENT(S)

Attachment 1: Federal Waiver Request (1 page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

FEDERAL WAIVER REQUEST

Carl D. Perkins Program Waiver

FW-1 (Rev. 10-2-2009) **http://www.cde.ca.gov/re/lr/wr/**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Room 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency: jb 3/22/11 **Sutter Union High School District** Name of school(s): Sutter High School	Contact name and Title: Doug Ahlers Perkins Coordinator	Contact person's e-mail address: dahlers@sutterhigh.k12.ca.us
Address: (City) (State) (ZIP) PO Box 498, Sutter, CA 95982		Phone (and extension, if necessary): 530-822-5161 ext 223 Fax number: 530-822-5168
Period of request: (month/day/year) (4 years maximum) From: 7-1-2011 To: 6-30-15	Local board approval date: (Required) April 12, 2011	

LEGAL CRITERIA

1. Authority for the waiver: Federal Code Section: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Public Law 109-270 Section 131(c)(2).

2. Federal Code Section to be waived: Carl D. Perkins Career and Technical Education Improvement Act of 2006, Public Law 109-270 Section 131(c)(1), that 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.

3. Review the revised 2009 SBE Waiver Policy at: http://www.cde.ca.gov/re/lr/wr/documents/perkinspolicyr.doc

Section 131(d)(2) of the Career and Technical Education and Improvement Act of 2006 permits states to waive the consortium requirement in any case in which the local agency:

(a) is in a rural, sparsely populated area, or is a public charter school operating secondary vocational and technical education programs;

Circle the NCES Locale Code for your school(s): 31 32 33 41 42 43

(b) demonstrates it is unable to enter into a consortium to participate in the Perkins funding.

Please document your efforts:

Sutter Union High School meets the Department of Educations Evaluation Guidelines. Sutter Union High School is a rural school with NCES locale code **23** and has a population of 650 students, well under the 1000 students or less requirement. Sutter Union High School is located 8.9 miles west of Yuba City, the closest and largest city, making the distance more than the 5 miles requirement. The rural town of Sutter has a population of 3000, which is under the 7000 population criteria for a suburb.

Sutter Union High School is unable to form a consortium with neighboring districts. All neighboring districts either meet the $15,000 requirement or do not participate in Perkins funding.

4. Demographic Information:

Sutter High has a student population of 650 and is located in a Suburb Small *in Sutter* County.

District or County Certification – *I hereby certify that the information provided on this application is correct.*

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-6

ITEM #WC-6

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Rescue Union Elementary School District** to waive a portion of California *Education Code* Section 37223, which relates to weekend makeup classes. Waiver Number: 20-3-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval under the following conditions: (1) The makeup days are optional and parents are notified as such. At the next regularly scheduled board meeting for the 2011-12 year, the district will publicly identify the makeup day for the year; (2) the waiver is limited to the one day in each of the 2010-11 and 2011-12 years that were restored as a result of the federal Education Jobs Funding and; (3) Students will be allowed to go to their regular classrooms and be instructed by their regular classroom teachers on makeup days that occur on days other than Saturday or Sunday.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has not received a similar waiver request before.

This district meets the criteria for the SBE Streamlined Waiver Policy, available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, wherein achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle results in this waiver being scheduled for the consent calendar. Rescue Union Elementary School District (UESD) has a 2010 API of 888.

SUMMARY OF KEY ISSUES

Most school district funding is apportioned on the basis of average daily attendance (ADA). When computing ADA, districts include all days in which students are in attendance under the immediate supervision and control of a certificated employee of the district and engaged in educational activities required of them. Districts do not include days in which the student is absent for the entire day, whether excused or unexcused.

SUMMARY OF KEY ISSUES (Cont.)

Education Code (EC) Section 37223 allows students to attend classes to makeup absences (makeup classes) and allows districts to include these days in its calculation of ADA. However, the law restricts the days that makeup classes may be offered to Saturday or Sunday. If the waiver is approved, Rescue UESD would be allowed to offer a makeup class on any day of the week and thus include the attendance of certain pupils—those who had absences before the makeup class day—in its calculation of ADA.

The law allows school districts to reduce their days of instruction by as many as five days in the 2009-10 through 2014-15 years. Rescue UESD exercised this option and reduced its school calendar from 180 to 177 instructional days in the 2010-11 and 2011-12 years. After the district adopted and published its school calendar, it was able to bring its teachers back on one of the days in each year due to the influx of Education Jobs funding from the Federal Government, which could be used to for school-level employee compensation and benefits—including costs related to eliminating furloughs—and other costs. However, to minimize disruptions to families that already planned around the non-instructional day, it did not bring back the days as part of its mandatory school calendar and instead brought them back as voluntary makeup days. According to the district, on these makeup days the students will go to their regular classrooms to report to their regular teachers, transportation will be available, and food will be served. The makeup day in the 2010-11 school year was March 18, 2011, on which all of the approximately 192 teachers worked and generated 2,349 days of attendance (approximately 17.4 units of average daily attendance) for the district.

The Department recommends that the waiver be approved provided that the makeup days are optional and that parents are notified as such, that it is limited to the one day in each of the 2010-11 and 2011-12 school years that were restored as a result of the Education Jobs Funding, and that students will be allowed to go to their regular classrooms and be instructed by their regular classroom teachers on makeup days that occur on days other than Saturday or Sunday.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

SUMMARY OF KEY ISSUES (Cont.)

Demographic Information: Rescue UESD has a student population of 4,097 and is located in a mixed suburban/rural area in El Dorado County.

Authority for Waiver: *EC* Section 33050

Period of request: March 1, 2011, to May 29, 2012

Local board approval date(s): February 8, 2011

Public hearing held on date(s): February 8, 2011

Bargaining unit(s) consulted on date(s): January 20, 2011 and January 28, 2011

Name of bargaining unit/representative(s) consulted: California School Employees Association Chapter 737/Carol Pypers, President: Rescue Union Federation of Teachers/Lisa DiRicco and Lynn Simpkin, co-presidents

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate): Letters of support from bargaining units are included in Attachment 1.

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☐ other (specify)

Advisory committee(s) consulted: Pleasant Grove Schoolsite Council (1/19/2011), Jackson Elementary Schoolsite Council (1/19/2011), Green Valley Schoolsite Council (1/24/2011), Lake Forest School Site Council (2/2/2011), Lakeview Schoolsite Council (2/7/2011), Marina Village Middle Schoolsite Council (2/7/2011), Rescue Elementary Schoolsite Council (2/14/2011)

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: As noted above

FISCAL ANALYSIS (AS APPROPRIATE)

If the waiver is approved, the district's ADA will increase. For Rescue UESD, each day of attendance in the 2010-11 school year generates approximately $37 in revenue limit funding.

ATTACHMENT(S)

Attachment 1: General Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	9	6	1	9	7	8

Local educational agency: Rescue Union School District	Contact name and Title: Ronna Wolcott Assistant Superintendent, Business	Contact person's e-mail address: rwolcott@rescue.k12.ca.us
Address: (City) (State) (ZIP) 2390 Bass Lake Road, Rescue, CA 95672		Phone (and extension, if necessary): (530) 672-4803 Fax Number: (530) 677-0719
Period of request: (month/day/year) ***From: March 1, 2011 To: May 29, 2012***	Local board approval date: (Required) ***February 8, 2011***	Date of public hearing: (Required) ***February 8, 2011***

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): ***37223*** Circle One: ***EC*** or *CCR*

   Topic of the waiver: ***Make-up classes restricted to Saturday or Sunday***

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): ***CSEA 1/20/2011, RUFT 1/28/11***

   Name of bargaining unit and representative(s) consulted: ***CSEA Chapter 737-Carol Pypers; Rescue Union Federation of Teachers-Lisa DiRicco, Lynn Simpkin (President)***
   California School Employees Association (Co-President) (Co-President)

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): ***See attached letters of support per Rona Wolcott jb 3/11/11***

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _X__ Notice in a newspaper __X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   Pleasant Grove School Site Council (1/19/11), Jackson Elementary School Site Council (1/19/11), Green Valley School Site Council (1/24/11); Lake Forest School Site Council (2/2/11); Lakeview School Site Council (2/7/11), Marina Village Middle School Site Council (2/7/11), Rescue Elementary School Site Council (*2/14/11)***
   Date the committee/council reviewed the waiver request: ***See dates notated above.***

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

37223. (a) The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes ~~on Saturday or Sunday, or both~~.

See full text attached.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

EC 37223 restricts the holding of makeup classes to Saturday or Sunday or both. Rescue District currently has adopted a 177-day student calendar for the 2010-2011 and 2011-2012 school years. The district plans to offer a makeup class day for students who have missed one or more days of instruction on a Friday in March each of these years which is not calendared as a student instructional day and is not a designated holiday. These days were originally scheduled as furlough days for staff and non-instructional days for students. We believe that holding this day on a Friday will allow more students to attend to make up valuable instructional time that has been lost. By holding the makeup class on a Friday when many parents are at work, it will give the students a better choice than to be at a sitter or in a non-educational setting. The district will be using Federal Jobs Bill money to buy back the staff furlough day so all students will be going to their regular classrooms, transportation will be available and food will be served. It was also less disruptive to family schedules to make this a voluntary makeup class day rather than a mandatory part of the school calendar since the calendars were adopted last spring and many families had already planned to be gone. The district wants to leverage the Jobs Bill money by claiming any ADA that can be recouped in this way.

8. Demographic Information:

Rescue Union School District has a student population of 4,097 and is located in a mixed suburban/rural area in El Dorado County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 2/22/11
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Box #6

37223. (a) The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on ~~Saturday or Sunday, or both.~~

The classes may include, but are not limited to, continuation classes, special day classes for mentally gifted minors, makeup classes for unexcused absences occurring during the week, and the programs of a regional occupational center or regional occupational program.

(b) Except as otherwise provided in this **code**, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for the pupil per week.

(c) Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil. However, the governing board may require truants, as defined by Section 48260, to attend makeup classes conducted on one day of a weekend.

(d) Except as otherwise provided in this **code**, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday through Friday school week.

(e) The voluntary attendance of pupils in approved programs for mentally gifted minors, as defined in Section 52200, in special educational activities conducted on Saturday or Sunday shall not be included in the computation of the average daily attendance of the district.

(f) Subdivisions (b) and (d) of this section shall not apply to regional occupational centers or programs.

RESCUE UNION SCHOOL DISTRICT

CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION, CHAPTER 737

TO: Board of Trustees
Carol Bly, Superintendent
Ronna Wolcott, Assistant Superintendent
David Swart, Assistant Superintendent

FROM: Carol Pypers, President

DATE: January 20, 2011

RE: ADA Waiver

CSEA requests a waiver from the California Department of Education to provide one day of ADA make-up. CSEA requests a waiver for the period of March 1, 2011 to May 29, 2012.

This proposal is supported the California School Employees Association.

Cp/waiver for ADA 2011

January 28, 2011,

Rescue Union Federation of Teacher, RUFT, Local 3581 is in support of the general waiver request for Ed Code section 37223.

Lynn Simpkin
Lisa DiRicco

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-7

ITEM #WC-7

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Petition Waiver**

SUBJECT	
Petition request under California *Education Code* sections 60421(d) and 60200(g) for a renewal petition by **Poway Unified School District** to purchase specified non-adopted instructional materials for severely disabled children using Instructional Materials Funding Realignment Program monies. Waiver Number: 58-4-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

The California Department of Education recommends approval of renewal from July 1, 2011, through June 30, 2013.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Numerous petition requests have been submitted to the State Board of Education (SBE) to use Instructional Materials Funding Realignment Program (IMFRP) funds for the purchase of special education materials. The SBE approved all previous petitions.

This petition by the Poway Unified School District (Poway USD) to use IMFRP funds to purchase special education materials is a request for renewal of their similar petition approved by the SBE on September 17, 2009.

Also, this district meets the criteria for the SBE Streamlined Waiver Policy, available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle. Poway USD has an API of 883.

SUMMARY OF KEY ISSUES

California *Education Code (EC)* sections 60421(d) and 60200(g) specifically authorize the SBE to grant petitions for the purchase of non-adopted materials with IMFRP funds. *EC* sections 60242 and 60422 require instructional materials purchased to be adopted or standards-aligned.

Poway USD is petitioning to use IMFRP funds to purchase instructional materials that are not state-adopted but provide coverage of content standards in English-language arts assessed through the California Alternate Performance Assessment (CAPA), for use in

SUMMARY OF KEY ISSUES (Cont.)

their special education programs. Poway USD serves approximately 365 students with severe disabilities who cannot access the state curriculum through state or locally-adopted instructional materials programs. These students need specially designed, alternative instructional materials in order to access the curriculum. These students have specific goals and objectives developed in individualized education programs and use the CAPA to meet state testing requirements.

Poway USD has provided a complete list of materials that they intend to purchase, and they have provided a standards map that indicates where these materials provide coverage of those content standards in English-language arts that are assessed through the CAPA. This document is consistent with other recent petitions related to special education students.

Although Senate Bill 70 (Statutes of 2011) extended school district budget flexibility, as established by Senate Bill X3 4 and Assembly Bill X4 2 (Statutes of 2009), allowing districts to utilized IMFRP funds for “any educational purpose,” *EC* Section 42605(e)(2)(A) states the following:

> Any instructional materials purchased by a local education agency shall be the materials adopted by the state board for kindergarten and grades 1 to 8, inclusive, and for grades 9 to 12, inclusive, the materials purchased shall be aligned with state standards as defined by Section 60605, and shall also meet the reporting and sufficiency requirements contained in Section 60119.

Education Code Section 60119(c)(1) requires that "each pupil, including English Learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home.” Because these materials for severely handicapped students provide coverage of content standards in English-language arts assessed through the CAPA and are not state-adopted, SBE approval of this petition is needed in order that these materials may be used in place of the otherwise required materials.

The Department recommends approval of this petition request.

Demographic Information: Poway USD serves approximately 365 students with severe disabilities in San Diego County.

Authority for Petition: *EC* Section 60421(d) and 60200(g)

Period of request: July 1, 2011, to June 30, 2013

Local board approval date(s): May 24, 2011

Public hearing held on date(s): May 24, 2011

Public hearing advertised by (choose one or more):
☒ newspaper ☒ posting at each school ☐ other

FISCAL ANALYSIS (AS APPROPRIATE)

The Poway USD is petitioning to use $197,174.66 in IMFRP during July 1, 2011, through June 30, 2013. While funding levels for these fiscal years is not yet available, as a reference the Poway USD IMFRP apportionment for fiscal year 2009–10 was $1,842,836. There is no statewide fiscal impact of petition approval.

ATTACHMENT(S)

Attachment 1: Petition Request (2 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

PETITION REQUEST – Instructional Materials Funds Realignment Program (IMFRP)

PR-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	2	9	6

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
POWAY UNIFIED SCHOOL DISTRICT	Melanie Brown	mbrown@powayusd.com

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
15250 Avenue of Science	San Diego	CA	92128	858-521-2824 Fax Number: 858-485-1501

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2011 To: June 30, 2013	May 24, 2011	May 24, 2011

LEGAL CRITERIA

1. Under the authority of the petition process, *Education Code (EC)* sections 60421(d) and 60200(g), this local educational agency (LEA) requests the State Board of Education (SBE) to authorize the use of any instructional materials allowances for the purchase of other instructional materials as listed below. Waiver of *EC* 60242(a) and 60422(a).

2. Give a brief description including title of publisher name, grade level and edition of the materials to be purchased, and total amount of instructional materials allowances to be spent in this manner (If this is insufficient space, add to attached narrative):

   SEE ATTACHED

3. Public hearing requirement. A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the petition request. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   ☒ Notice in a newspaper? ☒ Notice posted at each school? ☐ Other: _____ (please list)

4. Certification by local board for petition to purchase other instructional materials with Realignment Program funds (IMFRP). In checking each of the boxes below, the local governing board acknowledges its certification or understanding of the following:

   ☒ Authorizes the submission of the petition to the SBE under *EC* 60421(d)*: "Notwithstanding any other provision of law, pursuant to subdivision (g) of Section 60200, the SBE may authorize a school district to use any state basic instructional materials allowance to purchase standards-aligned materials as specified within this part."* (AB 1781, Statutes of 2002)

   ☒ Verifies that the local governing board has determined that the state-adopted materials do not promote the maximum efficiency of pupil learning in the district or school(s) as specified under *EC* 60200(g).

   ☒ Verifies that the requested materials have been evaluated for consistency with the content standards that have been adopted by the SBE, and that the materials are aligned to the standards in this subject.

CALIFORNIA DEPARTMENT OF EDUCATION

PETITION REQUEST - Instructional Materials Funds Realignment Program (IMFRP)

PR-1 (Rev. 10-2-2009)

Certification by local board for petition to purchase other instructional materials with Instructional Materials funds (continued):

☒ If the instructional materials requested for purchase through this petition (or the instructional material proposed by the district to supplement a non adopted program) have not been previously reviewed by the CDE, for the purposes of adoption or the review of another LEA's petition request, the LEA must include with the petition request::

- A complete set of standards maps indicating alignment with the grade-by-grade standards for the material. Forms are available through the Waiver Office; many publishers should have these standards maps available.
- CDE may request that a complete set of the actual instructional materials be mailed to the CDE for review against those standards maps. Call the Waiver Office at (916) 319-0824 for mailing instructions.

☒ Verifies that the proposed materials have passed state or local level legal compliance review, or are exempt from such as review. Check approved list at CDE's Curriculum Frameworks and Instructional Materials web page on the Instructional Materials Funding Realignment Program information.

After considering the issues listed above, this local governing board has determined that the purchase of the proposed resources will promote the maximum efficiency of pupil learning in our agency, and has approved the submission of this petition to the SBE.

PUSD BOARD MEETING WILL BE HELD ON TUESDAY, MAY 24, 2011

Signed: _____, School Board President of Poway Unified School District
(LEA)

Other required attachments to the petition request include:

- A brief description, publisher name, grade levels, and price list of instructional materials to be purchased and total amount of instructional materials allowances to be spent in this manner (if not already included in Item 1, on the first page of the Petition Request);
- A narrative describing the reasons for the petition based on student needs; evidence of a well designed standards aligned curriculum plan, the local process for review of standards maps of this particular material, including a description of how weaknesses in these materials will be supplemented (if necessary);
- Provide evidence of exemplary academic achievement or growth, by district, school(s), and where appropriate, by subject matter, grade level, and significant subgroup (except for petitions for grade level extensions of adopted programs). The forms for this assessment data are available at http//:www.cde@ca.gov/re/lr/instrmatwaivers.asp

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-8

ITEM #WC-8

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Moreland Elementary School District** to waive California *Education Code* sections 15102 and 15268 to allow the district to exceed its bonded indebtedness limit of 1.25 percent of the taxable assessed value of property. (Requesting 1.57 percent) Waiver Number: 5-4-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval with conditions that the bonded indebtedness limit of Moreland Elementary School District (ESD) be waived provided that it does not exceed 1.57 percent of the assessed valuation of taxable property of the district and that the waiver is limited to the sale of bonds approved by the voters in the November 2010 election. In addition, at no time is the tax levy to exceed the $30 per $100,000 of taxable property authorized by the voters to secure the November 2010 bonds.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has approved all bond limit waiver requests as long as they have been limited to the sale of general obligation bonds already approved by local voters and that they do not exceed the tax amount authorized by the voters. In September 2004, the SBE approved a similar waiver for the Moreland ESD.

Moreland ESD meets the criteria for the SBE Streamlined Waiver Policy, available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, by achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle. Therefore, this waiver has been scheduled for the consent calendar. Moreland ESD has a 2010 API of 870.

SUMMARY OF KEY ISSUES

Moreland ESD is requesting a waiver of California *Education Code (EC)* sections 15102 and 15268, which prohibit elementary school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of a district's taxable property. The district's current debt ratio is 1.21 percent.

SUMMARY OF KEY ISSUES (Cont.)

Moreland ESD has five elementary schools and one middle school. In November 2010, voters in the district approved a $55 million bond measure to finance school facilities and to upgrade computer, fire, and security systems. Included in the measure was an estimate of the highest tax rate that would be required to fund the bond principal and interest, which was $30 per $100,000 of taxable property.

To date, the district has not issued any of these bonds. The district plans to issue them over the next several years. However, it can only issue $2.5 million due to the statutory limits. Specifically, if the district issues $55 million in bonds, the district estimates that the bonded indebtedness will increase to 1.57 percent of assessed valuation in 2016-17. The waiver would allow the district to issue the $55 million in bonds, which according to the district, are needed to make urgent and critical facility renovations and upgrades over the next several years. Without the waiver, the district would need to obtain other, more expensive, non-bond financing to complete its projects. This would impose an additional general fund cost to the district.

Based on the district's 2010 assessed valuation, scheduled principal reduction on outstanding bonds, and an estimated 3.2 percent annual growth in assessed valuation over the next six years (the eight year average growth rate in assessed valuation was 5.94 percent), the district projects that if it issues $55 million in bonds, its bonded indebtedness ratio will fall below the statutory limit of 1.25 percent by 2019.

The California Department of Education recommends the board approve the district's request with the following conditions: The waiver is limited to the sale of bonds approved by the voters in the November 2010 election and the bonded indebtedness will not exceed 1.57 percent of assessed valuation. In addition, at no time before issuance of any additional authorized bonds will the tax levy exceed the $30 per $100,000 of taxable property authorized by the voters to secure the bonds.

Demographic Information: Moreland ESD has a student population of 4,237 and is located in an urban area in Santa Clara County.

Authority for Waiver: *EC* Section 33050

Period of request: July 14, 2011 to June 30, 2019. The district requested June 30, 2011 to June 30, 2019.

Local board approval date(s): March 22, 2011

Public hearing held on date(s): March 22, 2011

Bargaining unit(s) consulted on date(s): March 7, 2011

SUMMARY OF KEY ISSUES (Cont.)

Name of bargaining unit/representative(s) consulted: California School Employees Association, Maggie Day, President and Moreland Teachers Association, Kim Lawrence, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☒ posting at each school ☒ other (specify)

Advisory committee(s) consulted: Community Board Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 17, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of this waiver would allow the district to issue $55 million in voter-approved bonds for school facility renovations and upgrades at all the school sites within the district and avoid incurring added debt service costs associated with non-bond financing.

ATTACHMENT(S)

Attachment 1: General Waiver Request (4 pages) (Original waiver request is signed and on file in the BE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	3	6	9	5	7	5

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Moreland Elementary School District	Dana Taylor, Asst Supt Business	dtaylor@moreland.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 408-874-2922
4711 Campbell Avenue	San Jose	CA	95130-1790	Fax Number: 408-374-8827

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: ~~6/30/2011~~ 7/14/11 SC To: 6/30/2019	March 22, 2011	March 22, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 15102 and 15268 **jb 5/23/11** Circle One: *EC* or *CCR*

Topic of the waiver: To allow the District to exceed its bonding limit of 1.25% for the taxable assessed value of property.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): March 7, 2011
ECC 5/5/11
Name of bargaining unit and representative(s) consulted: Maggie Day, President California School Employess Association
Kim Lawrence, President , Moreland Teachers Association/ California Teachers Association
MTA (CTA) – Kim Lawrence/MCSEA (CSEA) Maggie Day
The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*) **kak 4/8/11**

Comments (if appropriate): See attached letters of support.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper _X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: 3/17/2011 CBAC – Community Board Advisory Committee

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

The Moreland Elementary School District in Santa Clara County, is requesting a Waiver of Education Code Section 15102, which prohibits school districts from issuing bonds in excess of 1.25 percent of the assessed valuation of taxable property of the District. The exact Education Code phrase requested to be waived is: 15102 – The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed 1.25 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the County or Counties in which the district is located.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

See Attached.

8. Demographic Information:
(*District/~~school/program)~~*__ has a student population of _4237____ and is located in a __ (*urban, ~~rural, or small city etc.)~~*__ in __Santa Clara_____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: March 22, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education
GENERAL WAIVER REQUEST

7. *Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilities local agency operations. If more space is needed, please attach additional pages.*

In November 2010, the District's voters approved Measure K, a $55 million general obligation bond, with around 67.96% of the vote. To dated, the District has not issued any of the general obligation authorization.

The District is currently limited to issuing approximately $2.5 million due to the statutory cap imposed by Education Code 15102, which prohibits bonds being issued in excess of 1.25% of the taxable property of a school district. Given the needed school facility modernization projects that are currently planned, this application seeks a general waiver from the Department of Education that would allow the issuance of bonds in an amount that does not exceed 1.57% of the taxable property within the District's boundaries.

If approved, this waiver request would increase the District's bonded indebtedness ratio from 1.21% to 1.57% in 2016 based on the assessed valuation (AV) growth assumptions as listed below.

2010-11:	0.69% (actual AV growth rate)
2011-12:	1.50%
2012-13:	1.50%
2013-14:	1.50%
2014-15:	5.75%
2015-16:	5.75%

Based on this AV growth rate, the District's indebtedness level will exceed the statutory limit of 1.25% beginning in 2012-13 and lasting through 2018-2019. During that period of time, the indebtedness level will peak at 1.57% in 2016-2017. Then beginning in 2019-20, it is projected that the District will be below the statutory limit of 1.25%

The proposed financing structure has been coordinated to ensure the District's ability to make needed school facility renovations and upgrades over the next several years. In addition, when balancing financing needs with construction schedules, being able to access the bond dollars sooner will be more economical.

Projects that are scheduled to be funded with money raised from bond issuances include the following:

<u>Anderson School (485 students)</u>

- Technology Upgrades
- Natural Day lighting
- Access and code upgrades

- New or remodeled multi-purpose room
- Updated field

Baker School (700 students)

- Classroom Technology Upgrades
- Natural Day lighting
- Access and code upgrades
- New or remodeled multi-purpose room
- Updated field

Country Lane School (670 students)

- Classroom Technology Upgrades
- Classroom Upgrades
- Natural Day lighting
- Access and code upgrades
- New or remodeled multi-purpose room
- Updated field

Easterbrook Discovery School (850 students)

- Classroom Technology Upgrades
- Natural Day lighting
- Access and code upgrades
- New gymnasium or remodeled multi-purpose room
- Updated track & field

Payne School (616 students)

- Classroom Technology Upgrades
- Natural Day lighting
- Access and code upgrades
- New or remodeled multi-purpose room
- Updated field

Moreland Middle School (983 students)

- Classroom Technology Upgrades
- Classroom Upgrades
- Natural Day lighting
- Access and code upgrades
- Updated track & field

Facility Upgrades

- New HVAC systems for school facilities.
- Upgraded fire alarm systems
- Solar

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-9

ITEM #WC-9

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **La Grange Elementary School District** to waive California *Education Code* Section 35786 in its entirety, which requires a lapsation to be effective on the date of the lapsation order, and a portion of *Education Code* Section 35782, which requires a public hearing on lapsation to be conducted within 30 days of the close of the school year. Waiver Number: 10-5-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends approval with the following conditions: (1) the lapsation is effective July 1, 2012; (2) the La Grange Elementary School District (ESD) is annexed to the Roberts Ferry Union ESD; and (3) the Stanislaus County Committee on School District Organization (County Committee) takes action to lapse the La Grange ESD by August 31, 2011.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) has considered similar waiver requests in the past for other districts—the most recent for the Panoche ESD, in San Benito County, at its January 2006 meeting.

Also, this district meets the criteria for the SBE Streamlined Waiver Policy, available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle. La Grange ESD has an API of 819.

SUMMARY OF KEY ISSUES

The waiver request, if approved, would delay the required lapsation of the La Grange ESD, in Stanislaus County, by one year—from July 1, 2011, to July 1, 2012. This delay would be consistent with a territory transfer proposal already submitted by the governing boards of the La Grange ESD and the Roberts Ferry Union ESD that would annex the La Grange ESD to the Roberts Ferry Union ESD, effective July 1, 2012 (at the earliest).

SUMMARY OF KEY ISSUES (Cont.)

Education Code Section 35780 establishes the conditions necessary for a county committee to initiate lapsation proceedings for a school district. Subdivision (a) of this section requires lapsation of an elementary school district when the district's average daily attendance (ADA) falls below six. Under conditions of lapsation, the county committee is required to annex the territory of the lapsed district to one or more adjoining districts. The La Grange ESD is located in a remote, rural area of Stanislaus County and has an ADA of less than six. *EC* Section 35780 requires that the Stanislaus County Committee lapse the La Grange ESD, whose enrollment has fallen significantly over the past five years (see following table). Lapsation would be effective for the 2011–12 school-year.

CBEDS Enrollment for La Grange ESD

Year	Enrollment
2006-07	80
2007-08	68
2008-09	20
2009-10	13
2010-11*	5
2011-12**	7

** District reported enrollment*
*** District projected enrollment*

This historical enrollment trend prompted the governing board of the district, along with the board of the Roberts Ferry Union ESD, to initiate a proposal to transfer the entire territory of the La Grange ESD to the Roberts Ferry Union ESD. The territory transfer process, which would result in the La Grange ESD being annexed to the Roberts Ferry Union ESD effective July 1, 2012, was begun before the La Grange ESD learned that its enrollment had fallen below the level that triggered lapsation. July 1, 2012, is the target date that the affected districts, parents, and community members have been using to plan and prepare for the community's educational future. Lapsing the district for the 2011–12 school-year will make these already prepared plans meaningless.

This waiver (and the aforementioned conditions placed on waiver approval) would effectively delay the lapsation of the La Grange ESD by one year (until July 1, 2012) and would adhere to the already expected timelines and planning for closure of the La Grange ESD. Thus, approval of the waiver request would attain the same result as the current territory transfer process, but without the added local expenditure of resources, and the requirement and the cost for an election.

It is the opinion of the California Department of Education (CDE) staff that none of the grounds specified in *EC* Section 33051 that authorize denial of a waiver exist. The Department recommends approval of the request to waive all of *EC* Section 35786 and a portion of *EC* Section 35782.

SUMMARY OF KEY ISSUES (Cont.)

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). "The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver."

Should the SBE disapprove the waiver, the CDE recommends the SBE approve the original request to waive the *EC* Section 35780 requirement that the La Grange ESD lapse. Such approval will allow the current territory transfer process to proceed.

Demographic Information: The La Grange ESD has a student population of five and is located in an isolated, remote, rural area of Stanislaus County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to December 31, 2012

Local board approval date(s): April 26, 2011

Public hearing held on date(s): April 26, 2011

Bargaining unit(s) consulted on date(s): April 27, 2011

Name of bargaining unit/representative(s) consulted: California Teachers Association (CTA), Ceres Regional Resource Center: Rolf Tallberg, Universe Regional Staff

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate): The superintendent-principal-teacher is the only full-time certificated staff member of the district and is classified as "management." Mr. Tallberg, Ceres Regional CTA, voiced the association's support for the waiver request via a telephone conversation with this superintendent-principal-teacher.

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (specify):
Notice of hearing also posted at five public places in the district.

Advisory committee(s) consulted: La Grange Elementary Schoolsite Council.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

The Schoolsite Council fully supports the district's effort to secure this waiver, which will afford the students, families, and staff ample time to prepare for the original closing date (June 30, 2012) of the district and resulting move to the Roberts Ferry Union ESD.

Date(s) consulted: April 25, 2011.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver request will not have negative fiscal effects on any local or state agency. Approval will eliminate the remaining costs of the territory transfer process, including the cost of an election.

ATTACHMENT(S)

Attachment 1: General Waiver Request (6 pages) (Original waiver request is signed and on file in the SBE Office or Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	9	6	8	5	6	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
La Grange Elementary School District **CDS Code: 50-71159**	**Joseph Magnu,** **Superintendent/Principal**	jmagnu0107 @earthlink.net

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
Physical: 30237 Floto Street, La Grange, CA 95329 **Mailing: P.O. Box 66, La Grange, CA 95329-0066**	**(209) 853-2132** **(cell) (209) 620-0557** Fax Number: **(209) 853-2007**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: ~~**June 30, 2012**~~ **December 31, 2011 LS 5/17/11**	**April 26, 2011**	**April 26, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 35782 and 35786 Circle One: *EC* or *CCR*
LS 5/17/11
Topic of the waiver: **Dissolution of school district (i.e., "lapse") based on decline in student attendance**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): April 27, 2011

Name of bargaining unit and representative(s) consulted: **CTA, Ceres Regional Resource Center, Rolf Tallberg**
California Teachers Association, Regional Staff kak 5/26/2011
The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate): **The superintendent-principal-teacher is the only full time certificated staff member and his position is classified as "management." Mr. Tallberg, Ceres Regional CTA, voiced the association's support of the waiver via a telephone conversation with Joseph Magnu, April 27, 2011, 2:00 p.m.**

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)*

The meeting agenda and public hearing notice was posted at the following 5 sites:

1.) District Office; 30237 Floto St., La Grange, CA
2.) Attached to the entrance gate of La Grange School; 30237 Floto St., La Grange, CA
3.) La Grange Post Office, 30204 Floto St., La Grange
4.) La Grange Mercantile, 30025 Yosemite Blvd., La Grange
5.) La Grange Market, 30124 Yosemite Blvd., La Grange. Copies of the public hearing notice and meeting agenda are attached.

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

La Grange Elementary School Site Council

Date the committee/council reviewed the waiver request: 4-12-2011 as a discussion item; and on 4-25-2011)

Were there any objection(s)? No _X__ Yes ___ (*If there were objections* p*lease specify)*

The School Site Council fully supports the District's effort to secure this waiver which will afford the students, families, and staff ample time to prepare for the original closing date (June 30, 2012) of the District and resulting move to the larger Roberts Ferry School.

6. *Education Code* or *California Code of Regulations* section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a strike out key).

Education Code section 35780(a): **See Attachment LS 5/17/11**

~~Any school district which has been organized for more than three years shall be lapsed as provided in this article if the number of registered electors in the district is less than six or if the average daily attendance of pupils in the school or schools maintained by the district is less than six in grades 1 through 8 or is less than 11 in grades 9 through 12, except that for any unified district which has established and continues to operate at least one senior high school, the board of supervisors shall defer the lapsation of the district for one year upon a written request of the governing board of the district and written concurrence of the county committee. The board of supervisors shall make no more than three such deferments.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Section 35780(a) would result in the dissolution of the Le Grange Elementary School District and annexation of its territory to one or more adjoining school districts. However, the District is already in the process of reorganization, specifically through a transfer of its territory to the neighboring Roberts Ferry Union Elementary School District.

The reorganization action has already been initiated, pursuant to Education Code section 35700(d), whereby a majority of the members of the governing boards of both districts filed a petition with the Stanislaus County Superintendent of Schools. If Section 35780(a) is not waived, it will trigger a competing administrative procedure running parallel to the District's current reorganization effort that would frustrate the efficiency of local agency operations and require unnecessary expenditure of State and local agency resources to accomplish, in large part, the same outcome that is already in progress. Further, an immediate lapsation would serve to undermine the integrity of the administration and governing boards of La Grange, Roberts Ferry, and the Stanislaus County Office Of Education, all of whom have been collaborating with one another and the public regarding the transfer of territory on July 1, 2012.

Passage of the waiver will enable the districts, employees, families, and students the opportunity to plan for a smooth transition for when their resources are blended. This impending reorganization will affect two classified employees of the receiving district as they will be laid off as a result of seniority lists upon the merger. It will also affect the transportation and family schedules of the La Grange students. Once again, it is our intention that this transition be proactive by affording all stakeholders the opportunity to prepare for its fiscal implications. As stated above, the districts are working together with all stakeholders via joint board work sessions to make the transition as seamless as possible which is in the best interest of the students, parents, and staff members.

If Section 35780(a) is not waived, parents of La Grange students will have to redirect their efforts to secure before and after school child care and home to school transportation for their children. This would cause a financial hardship and worry for these economically disadvantaged families. Further, denial of this waiver will negatively impact the academic progress and social emotional aspects of the children's lives. For the first time in their school careers, many of the students have experienced academic and social success at this small rural school.

La Grange students have also benefited from the District's many enriched learning opportunities that are not always available at larger districts. The students have enjoyed an active voice and participation in the following programs offered at La Grange: Before, After and Supplemental Day Programs (tutoring, mentoring, substance abuse prevention); a strong Service-Learning program; "Project Citizen" civic engagement; cross-age and cross-generational tutoring; access to the arts; an effective Character Education program; gardening; and culinary arts. Approval of the waiver will enable the La Grange students to properly prepare for the closure of their school and transition to the many changes they will encounter at the larger Roberts Ferry School.

Please see the following attached documents which support the District's rationale:

- Letter of Support: Tom Changnon, Stanislaus County Superintendent of Schools
- Historical Attendance, Enrollment, and ADA figures
- Public Hearing Notice and Meeting Agenda

The above can be achieved by waiving the timelines (*EC*) 35782) and effective date of lapsation (*EC* 35786). Such waivers will make the lapsation effective July 1, 2012, and achieve the same goals as stated above. **LS 5/17/11**

8. Demographic Information:

The current enrollment of 5 students is very rare for the District (2011, P-2 ADA is 5.70) which has averaged approximately 20 students in each of the past 35 years. The District is located in an isolated, remote, rural area of Stanislaus County. One hundred percent of the students come from economically disadvantaged households and receive free meals. Forty percent (40%) of the students are Hispanic, while 60% are white. Projected enrollment for 2011-12 is seven (7), however that may increase as there are currently many homes for rent or sale in the immediate area.

The school is the center of the community for the children and their families. The nearest resources/services are 18+ miles away. The district provides Before, After, and Supplemental Day Programs for the students, all of whom have parents who commute 45+ miles to their places of employment. Parents have chosen to live in this community based on the individualized attention their students receive at the school, its safe environment, and access to extracurricular programs and enrichment activities offered in the Before, After and Supplemental Day Programs. It is because of these reasons that the students are successful, academically and socially. Our Academic Performance Index (API) has steadily increased from 680 to 819 during the last 11 years.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: Signature of Superintendent or Designee:	Title: Superintendent-Principal	Date: 04/26/2011

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment

6. Education Code or California Code of Regulations section to be waived:

Request to waive the following sections and portions of the Education Code line out below:

35782. ~~Within 30 days after the close of each school year~~, the county committee shall conduct a public hearing on the issues specified in Section 35780. Notice of the public hearing shall be given at least 10 days in advance thereof to each member of the governing board of the lapsed district immediately prior to its lapsation, to each of the governing boards which adjoin the lapsed district, and to the high school district of which the lapsed elementary district is a component.

~~35786. An order of a county committee attaching the territory of a lapsed school district to one or more adjoining school districts shall be effective for all purposes on the date of the order.~~

April 26, 2011

To Whom It May Concern,

I am writing this letter on behalf of Mr. Joseph Magnu, Superintendent/Principal of the La Grange School District. Due to recent trends in declining enrollment our County Office has been working with this remotely located school to go through the process of closing the district. We have met with their board and the paper work process has begun.

Recently, it came to their attention that their P2 numbers fell just short of the required number to maintain an open campus for next year. Mr. Magnu and his board is appealing to the state and asking for a waiver for one additional year of operation. As mentioned above, they have begun the process already to dissolve the district and were anticipating having a full year to prepare for this transition of students and staff.

I would ask you take their request for a waiver seriously and grant them additional time. Our office will continue to work with them throughout the year as needed.

Thanks for your consideration of this request.

Sincerely,

Tom Changnon
Stanislaus County Superintendent of Schools

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-10

ITEM #WC-10

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Jamestown Elementary School District** under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* 52852, allowing one joint schoolsite council to function for two small schools: **Chinese Camp Elementary School** and **Jamestown Elementary School**. Waiver Number: 22-3-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with conditions that the joint schoolsite council (SSC) which will serve during the period of this waiver will be composed of the following ten members: one principal; two classroom teachers selected by teachers at Jamestown Elementary School (ES); one classroom teacher selected by teachers at Chinese Camp ES; one other school employee selected by other school personnel at either school; a total of five parents selected by their peers, representing Jamestown ES and Chinese Camp ES, with at least one parent from Chinese Camp ES.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Specific authority is provided in California *Education Code* (*EC*) Section 52863 to allow the State Board of Education (SBE) to waive the SSC requirements of the School-Based Coordination Program (SBCP) Act that would hinder the success of school-based programs. These waivers must be renewed every two years.

All waivers of this type have been approved by the SBE for schools too small to meet the SSC composition requirements of *EC* Section 52852. Pursuant to California SBE Policy 09-01 Waiver Guidelines: Schoolsite Councils for Small Schools Sharing Common Services or Attendance Areas Web document at http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc, schools must have small numbers of students and teachers and have a common site administration, curriculum, or other shared services; or have a geographic proximity or similar student populations.

SUMMARY OF KEY ISSUES

Chinese Camp ES is a rural small necessary school with an enrollment of 26 students. It recently joined the Jamestown Elementary School District (ESD) through an annexation. The Jamestown ESD Superintendent serves as the Principal at Chinese Camp ES, the Afterschool Program Director manages both sites, and both schools have some staff in common. The SSC will have representatives from both schools.

Demographic Information: Chinese Camp ES is a rural small necessary school with an enrollment of 26 students located in Tuolumne County. It recently joined the Jamestown ESD through an annexation. Jamestown ES has an enrollment of 407 students.

Authority for Waiver: *EC* Section 52863

Period of request: August 18, 2010 to August 18, 2012

Local board approval date(s): February 9, 2011

Bargaining unit(s) consulted on date(s): January 10, 2011

Name of bargaining unit/representative(s) consulted: Jamestown Teachers Association, Greg Haney, President, and the California School Employees Association Kristin Barajas, President.

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose**:** Both bargaining units indicate neutral positions.

Comments (if appropriate):

Advisory committee(s) consulted: The Jamestown Schoolsite Council and Chinese Camp parents approved the request on January 12, 2011.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: January 12, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office of the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SHARED SCHOOL SITE COUNCIL

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	5	7	2	3	6	3

Local educational agency: Jamestown School District	Contact name and Title: Diane Dotson, Superintendent	Contact person's e-mail address: ddotson@jamestown.k12.ca.us
Address: (City) (State) (ZIP) 18299 Fifth Avenue, Jamestown, CA 95327		Phone (and extension, if necessary): 209-984-4058 X 154 Fax number: 209-984-0434
Period of request: (month/day/year) From: 8/18/10 To: 8/18/12	Local board approval date: (Required) February 9, 2011	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive:
EC 52863 Any governing board, on behalf of a school site council, may request the State Board of Education (SBE) to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
EC 52852 Schoolsite councils for **small schools sharing** common services or attendance areas, administration and other characteristics.
Read SBE Waver Policy for Shared SSC's: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc
Wavers meeting these conditions go to SBE Consent Calendar.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _____ and date of SBE approval
Renewals of waivers must be submitted two months before the active waiver expires.

4. Collective bargaining unit information.
Does the district have any employee bargaining units? ___ No X Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): January 10, 2011

Name of bargaining units and representative(s) consulted: Jamestown Teachers Association, Greg Haney, President and California School Employee Association, Kristin Barajas, President.

Per Diane Dotson 3/15/11 jb

The position(s) of the bargaining unit(s): X Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Jamestown School Site Council and Chinese Camp parent survey

Date advisory committee/council reviewed request: January 12, 2011

X Approve ___ Neutral ___ Oppose

Were there any objections? Yes ___ No X (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. California Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established for school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in your area: 1. The number of principals, students and teachers at each school 2. Do the schools have a common administration, curriculum, or other shared services? Explain. 3. Do the schools have a geographic proximity or similar student population? What is the distance?

Elementary School

Chinese Camp is a rural small necessary school with an enrollment of 26 students. It recently joined the Jamestown School District through an annexation. The Jamestown District Superintendent serves as Principal at Chinese Camp School, the After School Program Director manages both sites, and the schools have common music and art teachers. The Site Council will have representatives from both schools. This waiver would allow better coordination of student services and better efficiency for the district. **and Jamestown Elementary School**

Per Diane Dotson 3/15/11

8. Demographic Information:
Jamestown School District has a student population of 389 and is located in a rural area in Tuolumne County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **X** No ___ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? **X** No ___ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: February 9, 2011
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-11

ITEM #WC-11

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Alview-Dairyland Union Elementary School District** under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small rural schools, **Alview Elementary School** and **Dairyland Elementary School**. Waiver Number: 49-3-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval of renewal with conditions that the joint schoolsite council (SSC) which will serve during the period of this waiver will be composed of the following ten members: one principal; two classroom teachers selected by teachers at Dairyland Elementary School (ES); one classroom teacher selected by teachers at Alview ES; one other school employee selected by other school personnel at either school; a total of five parents selected by their peers, representing Dairyland ES and Alview ES with at least one parent from Alview ES.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is a request for renewal of a previously approved Waiver No. 9-10-2010-WC-5 through March 11, 2011.

SUMMARY OF KEY ISSUES

Alview-Dairyland Union Elementary School District (UESD) is a very small rural local educational agency (LEA) and has a student population of 350 students and the schools share a common administration. Alview ES serves kindergarten through third grade and Dairyland ES serves fourth through eighth grades. The schools adopt a common curriculum and share services. The grade configuration of the LEA serves students from the same families. Teacher meetings, parent activities and many school events are conducted as one school. In approving this waiver the district staff and parents will work efficiently to improve student academic achievement.

Demographic Information: Alview-Dairyland UESD is a small rural district serving 350 students on two campuses in Madera County.

Authority for Waiver: *EC* Section 52863

Period of request: July 1, 2011, through June 30, 2013

Local board approval date(s): March 22, 2011

Bargaining unit(s) consulted on date(s): March 18, 2011

Name of bargaining unit/representative(s) consulted: Alview-Dairyland Teachers Association, Jennifer Paine, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

Advisory committee(s) consulted: Alview-Dairyland SSC

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: January 20, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SHARED SCHOOL SITE COUNCIL

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	0	6	5	1	7	7

Local educational agency: Alview-Dairyland Union School District	Contact name and Title: Lori Flanagan, Superintendent	Contact person's e-mail address: lflanagan@adusd.k12.ca.us
Address: 12861 Avenue 18 ½ (City) Chowchilla (State) CA (ZIP) 93610		Phone (and extension, if necessary): 559-665-2394 Fax number: 559-665-7347
Period of request: (month/day/year) From: 07/01/2011 To: 06/30/2013	Local board approval date: (Required) March 22, 2011	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive:
EC 52863 Any governing board, on behalf of a school site council, may request the State Board of Education (SBE) to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
EC 52852 Schoolsite councils for **small schools sharing** common services or attendance areas, administration and other characteristics.
Read SBE Waver Policy for Shared SSC's: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc
Wavers meeting these conditions go to SBE Consent Calendar.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: 9-10-2010-WC-5 and date of SBE approval March 11, 2011 Renewals of waivers must be submitted two months before the active waiver expires.

4. Collective bargaining unit information.
Does the district have any employee bargaining units? ___ No __X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 03/17/2011

Name of bargaining units and representative(s) consulted: Alview-Dairyland Teachers Association
Jennifer Paine, Union President

The position(s) of the bargaining unit(s): ___ Neutral __X_ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED).
Name: Alview-Dairyland School Site Council

Date advisory committee/council reviewed request: 01/20/2011

_X__ Approve ___ Neutral ___ Oppose

Were there any objections? Yes ___ No _X__ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. California Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at ~~each~~ school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in your area: 1. The number of principals, students and teachers at each school 2. Do the schools have a common administration, curriculum, or other shared services? Explain. 3. Do the schools have a geographic proximity or similar student population? What is the distance?

The Alview-Dairyland School District is very small and rural, serving only 350 students in grades kindergarten through eight. One person serves as the Superintendent/Principal for both sites. Each campus has eight classroom teachers with one shared Resource Specialist teacher. The Alview site houses kindergarten through third grades and the Dairyland site houses grades four through eight. The schools adopt common curriculum and share services. They are located approximately 10 miles apart. Due to the grade level configuration, these schools share the same families. Teachers' meetings, Parent Teacher Club meetings and many school events are also conduced as one school. This waiver is necessary to enable district staff and parents to better communicate and to work more smoothly towards academic achievement. Also, with the many duties of small school district employees, we are able to streamline local agency operations.

8. Demographic Information:
Alview-Dairyland has a student population of 350 and is located in a rural setting in Madera County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) __X_ No ___ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? _**X**__ No ___ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: 03/23/2011
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-12

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Terra Bella Union Elementary School District** under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one schoolsite council to function for two schools: **Terra Bella Elementary School** and **Carl F. Smith Middle School**. Waiver Number: 19-3-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval of renewal with conditions that the joint schoolsite council (SSC) which will serve during the period of this waiver will be composed of the following 12 members: a shared principal; four classroom teachers, two from Terra Bella Elementary School (ES) and two from Carl F. Smith Middle School (MS); one other school employee; and six parents or community members, three from Terra Bella ES and three from Carl F. Smith MS, selected by parents of students enrolled at Terra Bella ES and Carl F. Smith MS respectively.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Specific authority is provided in California *Education Code* (*EC*) Section 52863 to allow the State Board of Education (SBE) to waive the SSC requirements of the School-Based Coordination Program (SBCP) Act that would hinder the success of school-based programs. These waivers must be renewed every two years.

All waivers of this type have been approved by the SBE for schools too small to meet the SSC composition requirements of *EC* Section 52852. Pursuant to California SBE Policy 09-01 Waiver Guidelines: Schoolsite Councils for Small Schools Sharing Common Services or Attendance Areas Web document at http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc, schools must have small numbers of students and teachers and have a common site administration, curriculum, or other shared services; or have a geographic proximity or similar student populations.

SUMMARY OF KEY ISSUES

This is a renewal of a previously approved waiver (40-3-2009-WC-9) to continue a single SSC for the two schools in the district. The two schools have a combined

SUMMARY OF KEY ISSUES (Cont.)

enrollment of nine hundred six. The schools are located across the street from each other and many parents have students at both schools. A single SSC would provide continuity in planning supplementary educational support services in the kindergarten through grade five and grade six through grade eight schools.

Demographic Information: The Terra Bella Union Elementary School District (UESD) has two schools with a total student population of 906 and is located in a rural unincorporated township in Tulare County.

Authority for Waiver: *EC* Section 52863

Period of request: July 1, 2011, to June 30, 2013

Local board approval date(s): February 10, 2011

Bargaining unit(s) consulted on date(s): Terra Bella Teachers' Group consulted on February 4, 2011, and California School Employee Association consulted on March 21, 2011.

Name of bargaining unit/representative(s) consulted: Terra Bella Teachers' Group Jack Berry, President and California School Employee Association, Tony Robison, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose**:**

Comments (if appropriate): Both bargaining units were very positive in the support of a single school site council. They support the consolidations as a more efficient and better use of staff and community time.

Advisory committee(s) consulted: Terra Bella UESD SSC approved the waiver request on March 1, 2011.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 1, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	4	7	2	1	9	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Terra Bella Union Elementary School District	Frank H. Betry, Superintendent	fhbetry@tbuesd.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
9121 Rd. 240	Terra Bella	CA	93270	(559)535-4451 Xt. 1115 Fax number: (559) 535-0314

Period of request: (month/day/year)	Local board approval date: (Required)
From: July 01, 2011 To: June 30, 2013	February 10, 2011

LEGAL CRITERIA

1. Authority for the waiver: **_X__** Specific code section: **52863**
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive. 52863: Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provisions of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program.

If the State Board of Education approves the waiver request, the waiver shall pay only to the school or schools which requested the waiver and shall be effective for no more than two years. The State Board of Education may renew a waiver request.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) **52863** Circle One: ***EC*** or *CCR*

Brief Description of the topic of the waiver: **The District is requesting that one school site council functions and serves the district and both Terra Bella Elementary and Carl F. Smith Middle Schools.**

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: **40-3-2009-WC-9** and date of SBE approval **July 09, 2009**
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No √ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 02/04/2011 - Terra Bella Teachers' Group
03/21/2011 - CSEA

Name of bargaining units and representative(s) consulted: **Terra Bella Teachers' Group, Jack Berry, President**
California School Employees Association (CSEA), Tony Robison, President **kak 3/21/11**

The position(s) of the bargaining unit(s): ___ Neutral √ Support ___ Oppose (*Please specify why*)

Comments (if appropriate): **Both bargaining units were very positive in the support of a single school site council. They support the consolidation as a more efficient and better use of staff and community time.**

5. Advisory committee or school site council that reviewed the waiver. Name: **Terra Bella Union Elementary School District School Site Council**

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: **03/01/2011**

√ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No √ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

A school site council shall be established ~~at each school~~ which participates in school-based program coordination. The Council shall be composed of the principal and representatives of: teachers' selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

A single school site council for the two schools and the district is the desired outcome. The combined ADA population of the two schools is less than nine hundred and six students. The principals regularly plan and collaborate on categorical programs for the district. The schools are located across the street from each other. The elementary school serves students in grades kindergarten through fifth grade. The middle school serves grades sixth through eighth. The close proximity of the campuses lends itself to collaborative planning. Usually the parents who serve on the council have students at both schools. Their commitment is to the district as a whole. Staffing and running two site councils would fragment the implementation of the LEAP and tax parent participation. Consistent parent participation would be difficult to maintain as the same parents would be serving on both site councils. Being a small district with limited revenues, single site council would enhance, not hinder the decision making process concerning the categorical programs. A single site council would provide continuity and consistency in planning and implementation. The site principals will rotate membership on the council, the other attending as non-voting participant. The current site council strongly supports a single site council.

8. Demographic Information:
Terra Bella Union Elementary School District has a student population of **906** and is located in a **rural** *)***unincorporated township** in **Tulare** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) √ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? √ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: **District Superintendent**	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-13

ITEM #WC-13

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Madera County Office of Education** under the authority of California *Education Code* Section 52863 for a waiver renewal of *Education Code* Section 52852, allowing three schoolsite councils to function for its small schools. The first schoolsite council would serve **Challenger Elementary Community Day School** and **Discovery Secondary Community Day School**. The second schoolsite council would serve **Apollo Elementary Community Day School**, **Enterprise Intermediate School**, **Enterprise Secondary School**, **Endeavor Secondary School**, and **Voyager Secondary School**. The third schoolsite council would serve **Madera County Independent Academy** and **Pioneer Technical Charter School**. Waiver Number: 32-5-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommend s approval of the waiver renewal with the following conditions:

The schoolsite council (SSC) serving Challenger Elementary Community Day School and Discovery Secondary Community Day School shall be composed of: one principal; one classroom teacher selected by teachers at Challenger Elementary; one teacher selected by teachers at Discovery Secondary; and a total of three parents or community members representing the schools selected by their peers.

The SSC representing Apollo Elementary Community School, Enterprise Intermediate School, Enterprise Secondary School, Endeavor Secondary School, and Voyager Secondary School shall be composed of: one principal; two teachers selected by teachers at the schools; one other school employee selected by other school personnel at the schools; and a total of four parents or community members representing the schools selected by their peers.

The SSC representing Madera County Independent Academy and Pioneer Technical Charter School shall be composed of: one principal; two teachers, with one classroom teacher from each school selected by teachers; one other school employee selected by other school personnel at each of the schools; a total of three parents or community members representing the schools selected by their peers; and one student selected by peers.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Specific authority is provided in California *Education Code* (*EC*) Section 52863 to allow the State Board of Education (SBE) to waive the SSC requirements of the School-Based Coordination Program Act that would hinder the success of school-based programs. These waivers must be renewed every two years.

All waivers of this type have been approved by the SBE for schools too small to meet the SSC composition requirements of *EC* Section 52852. Pursuant to California SBE Policy 09-01 Waiver Guidelines: Schoolsite Councils for Small Schools Sharing Common Services or Attendance Areas document located on the CDE Waiver Policies Web page at http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc, schools must have small numbers of students and teachers and have a common site administration, curriculum, or other shared services; or have a geographic proximity or similar student populations.

SUMMARY OF KEY ISSUES

This is a renewal of a previously approved Specific Waiver number 15-4-2009-W-19 to maintain three SSCs for the schools listed. All schools share common services to students assigned to Alternative Education and some share common staff and administration. The schools are located in the small towns of Madera and Chowchilla. Each SSC will have representatives from each of the schools served by their schoolsite council. Because of the nature of the educational needs of the students, the local education agency has great difficulty maintaining SSCs of 10 or 12 representatives. Because each SSC represents a different mix of schools, we would like to request different compositions for each of the three SSCs.

Demographic Information: Madera County Office of Education is located in Madera County. The schools affected by the SSC consolidation are in the small towns of Madera and Chowchilla.

Authority for Waiver: *EC* Section 52863

Period of request: May 1, 2011, to April 30, 2013

Local board approval date(s): April 12, 2011

Bargaining unit(s) consulted on date(s): Madera County Office of Education Teachers' Association consulted on March 25, 2011.

Name of bargaining unit/representative(s) consulted: Madera County Office of Education Teachers' Association, Camille Edmonds (President) and Karl Diaz (site representative)

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose**:**

Advisory committee(s) consulted: Donna Conte, Chairperson of ESS and Chowchilla SSCs Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 7, 2011, for (ESS) and March 24, 2011, (Chowchilla)

FISCAL ANALYSIS (AS APPROPRIATE)

No state fiscal impact.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SHARED SCHOOL SITE COUNCIL And COMPOSITION OF MEMBERS

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver:
Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education

1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in Word and back-up material to: waiver@cde.ca.gov

CD CODE						
2	0	1	0	2	0	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Madera County Office of Education	Tracey McCully, Program Manager	tmccully@maderacoe.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
28123 Avenue 14	Madera	CA	93638	559-662-3872 Fax number: 559-661-3551

Period of request: (month/day/year)	Local board approval date: (Required)
May 1, 2011 To: April 30, 2013 From: ~~August, 2011~~ To: ~~August, 2013~~	April, 12, 2011

Jb 6/2/11 LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive:
EC 52863 Any governing board, on behalf of a school site council, may request the State Board of Education (SBE) to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
EC 52852 A school site council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.
Requesting shared school site councils and reduced numbers of members composing School Site Council for small schools operating Alternative Education Programs administered by Madera County Office of Education. (Statute requires 12 members for a high school site council and 10 members for elementary school site council).

3. If this is a renewal of a previously approved waiver, please list Waiver No: 15-4-2009-W-19 and date of SBE approval 9-17-09 (shared school site council)
Renewals of waivers must be submitted two months before the active waiver expires.

4. Collective bargaining unit information.
Does the district have any employee bargaining units? ___ No Yes X If yes, please complete required information below:
Bargaining unit(s) consulted on date(s): March 25, 2011
Name of bargaining units and representative(s) consulted: Madera County Office of Education Teachers' Association Camille Edmonds (President) and Karl Diaz (site representative)
The position(s) of the bargaining unit(s): ___ Neutral _X_ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED).
   Name: Donna Conte, Chairperson; Enterprise Secondary School Site Council
   Annie Smith, Administrative Representative, Discovery/Challenger School Site Council
   Date advisory committee/council reviewed request: March 7, 2011 (ESS); March 24, 2011 (Chowchilla)
   _X__ Approve ___ Neutral ___ Oppose
   Were there any objections? Yes ___ No X (If there were objections please specify)

6. California Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 A school site council shall be established at ~~each~~ school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.

EC 52852 A school site council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school~~; other school personnel selected by other school personnel at the school;~~ parents of pupils attending the school selected by such parents~~; and, in secondary schools, pupils selected by pupils attending the school.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The Madera County Office of Education would like to maintain three School Site Councils as established by Specific Waiver # 15-4-2009-W. The waiver was approved with the condition there must be three school site councils (SSCs) to serve the nine schools. The first SSC serves Apollo, Challenger, and Discovery. Two of these schools have a common principal and location. Apollo shares neither. The second SSC serves Enterprise Secondary, Enterprise Intermediate, Endeavor (Juvenile Hall), and Voyager (Boot Camp). These sites share a common principal and are in close proximity of each other. The third SSC serves Pioneer Technical Charter and Madera County Independent Academy. These are both charter schools, are located in the town of Madera, and have different principals. Demographic information is attached. All sites provide services to students assigned to Alternative Education. We request permission to operate 3 SSCs—Discovery & Challenger; ESS, EIS, Apollo, Endeavor/Voyager; and PTC & MCIA. Please see attached supportive data.

The schools represented by this waiver request are all sites under the umbrella of Madera County Office of Education's Alternative Education programs. The State Board of Education has approved a waiver to operate three SSCs to represent the eight sites. Because of the nature of the educational needs of the students, we have great difficulty maintaining SSCs of 10 or 12 representatives. Because each SSC represents a different mix of schools, we would like to request different compositions per SSC. The attached page will demonstrate the differing needs of each SSC.

We request that we waive the requirement to have student representation at any of the three SSCs. Our students do not invest in this type of activity for a number of reasons.

At the Discovery/Challenger sites, we have only 2 teachers. We request this SSC to have 6 members—1 teacher, 1 teacher or other staff, a principal, and 3 parent/community members.

At the Enterprise/Juvenile Hall/Boot Camp/Apollo SSC, we request 8 representatives—2 teachers, 1 other staff, 1 student, the principal, and 3 parent/community members.

At the Pioneer and Madera Academy SSC, we request 8 representatives—2 teachers, 1 other staff, 1 student, a principal, and 3 parent/community members.

8. Demographic Information:
The Alternative Education Programs at Madera County Office of Education have a shared student population of 450 students. The programs are located in small towns in Madera County—Madera and Chowchilla. T

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X__ No ___ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? __X_ No ___ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent of Schools, Madera County Office of Education	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-14

ITEM #WC-14

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Pleasanton Unified School District** to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010–11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student, based on *Education Code* Section 56101, the special education waiver authority. Waiver Number: 18-4-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with conditions that the State Board of Education (SBE) conditionally approve this waiver and remove only the requirement that one student successfully completes a course in Algebra I (or its equivalent) for the 2010−11 graduating year. The student has met other course requirements stipulated by the governing board of the school district and California *Education Code (EC)* Section 51225.3 in order to receive a high school diploma. If the student does not graduate in 2010−11, this waiver does not relieve the student of the responsibility to continue attempting to successfully complete a course in Algebra I (or its equivalent) in 2011−12 as required by *EC* Section 51224.5.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2000, *EC* Section 51224.5 was enacted to require students to complete a course in Algebra I, as a condition of receiving a high school diploma. The Algebra I requirement applied to students who were scheduled for graduation in 2003−04 and later. All waiver requests of this type have been granted by the State Board of Education for special needs students.

Also this district meets the criteria for the SBE Streamlined Waiver Policy, available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, achieving an Academic Performance Index (API) of 800 or above in the current scoring cycle. Pleasanton Unified School District has a 2009 API of 906.

SUMMARY OF KEY ISSUES

For the review of this waiver request, the district provided the following documentation:

- A valid, current copy of the student's individualized education program (IEP), highlighting the areas of mathematic deficiencies and how the student's needs in mathematics were addressed.

- Selected pages from the student's IEPs from three previous years showing that the student was consistently on a diploma-track and that the IEPs were written to support the student's participation in diploma-track math courses, particularly algebra.

- The specific assistance the district provided to this student including supplementary aids, services, accommodations, test modifications, and supports to attain the diploma-track goal for the algebra requirement.

- A copy of the transcript for this student highlighting former attempts taking algebra and pre-algebra classes.

- The assessment summary indicating that this student participated in the Standardized Testing and Reporting program.

The above documentation was confidentially reviewed by a special education consultant. The district's documentation provided facts indicating that failure to approve the request would result in this student not meeting graduation requirements.

Demographic Information: Pleasanton Unified School has a student population of 14,838 and is located in a small city in Alameda County.

Authority for Waiver: *EC* Section 56101

Period of request: July 1, 2010, to June 30, 2011

Local board approval date(s): April 12, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (1 page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

AIGR-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

Waiver of Algebra I Graduation Requirements for Pupils with Disabilities

Send Original to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CDS CODE						
0	1	7	5	1	0	1

Local educational agency: Pleasanton Unified School District	Contact name and recipient of approval/denial notice: Kent Rezowalli	Contact person's e-mail address: krezowalli@pleasanton.k12.ca.us
Address: (City) (State) (ZIP) 4661 Bernal Ave Pleasanton CA 94506		Phone (and extension, if necessary): 925-426-4293 Fax number: 925-426-7146
Period of request: (month/day/year) From: 07/01/2010 To: 06/30/2011	Local board approval date **or** SELPA signature date (required) April 12, 2011	

LEGAL CRITERIA

1. Authority for the waiver: X Specific code section: ***EC* 56101**

56101(a) Any district, special education local plan area, county office, or public education agency, as defined in Section 56500, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under…(IDEA)… or to the compliance of a district, special education local plan area, or county office with...(IDEA)…and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for children or youth with disabilities.

***Education Code* or *California Code of Regulations* section to be waived.**

51224.5 (a) The adopted course of study for grades 7 to 12, inclusive, shall include algebra as part of the mathematics area of study pursuant to subdivision (f) of Section 51220.

(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.

Desired outcome/rationale.

Request a waiver of the (above) Algebra I graduation requirement for___1_____ pupils with disabilities, who are seniors, and are otherwise eligible to graduate in the __2011_____ school year under current statute.

District/County/SELPA Certification – *I hereby certify that the information provided on this application is correct & complete.*

Signature of Superintendent or Designee:	Title:	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-15

ITEM #WC-15

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **West Orange County Special Education Local Plan Area** under authority of California *Education Code* Section 56101 to waive *Education Code* Section 56366.1(h), the August through October 31 timeline for an annual certification renewal application, for Speech and Language Professional Services, a nonpublic agency. Waiver Number: 31-5-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☒ Approval ☐ Approval with conditions ☐ Denial

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

West Orange County Special Education Local Plan Area requests to waive the annual application deadline (October 31) for submission of a renewal application have been routinely approved by the State Board of Education (SBE). The SBE Waiver Policy #00-03 Non Public School/Agency Certification (Annual Renewal Application Deadline), available at: http://www.cde.ca.gov/re/lr/wr/documents/nonpublicrenewal.doc), describes the evaluation guidelines that are used in reviewing this type of waiver. Approval of such requests allows California Department of Education (CDE), Special Education Division staff to review the renewal application beyond the statutory deadline.

SUMMARY OF KEY ISSUES

West Orange County SELPA for Special Education states the 2011 Certification Renewal Application for Speech and Language Professional Services LLC, a nonpublic agency (NPA), missed the annual application deadline as set forth in California *Education Code* Section 56366.1(h), which states that certification renewal applications for nonpublic agencies must be received by the August 1 through October 31 time period.

The NPA states that due to a previous employee's oversight, the renewal application to the CDE was not sent via certified mail and was subsequently lost in transit.

SUMMARY OF KEY ISSUES (Cont.)

Demographic Information: The Speech and Language Professional Services LLC provides language and speech development and remediation services, and occupational therapy services to a student population of 980.

Authority for Waiver: *EC* Section 56101

Period of request: January 1, 2011, to December 31, 2011

Local board approval date(s): April 20, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

The waiver approval has no fiscal impact statewide.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						

Local educational agency: West Orange County SELPA	Contact name and Title: Anne Delfosse, Director cc Keith Thomas	Contact person's e-mail address: Keith@slpsinc.com
Address: (City) (State) (ZIP) 56832 Bolsa Ave. Huntington Beach, CA 95649 Cc 18377 Beach Blvd, Ste 214 Huntington Beach CA 92648		Phone (and extension, if necessary): 714-903-7000 x 4601 Fax number: 714-372-8109
Period of request: (month/day/year) From: Jan 1, 2011 To: Dec 31, 2011	Local board approval date: (Required) 4-20-2011 SELPA Approval Date kak 5/15/11	

LEGAL CRITERIA

1. Authority for the waiver: _56101_ Specific code section: _56366.1(h)__
   Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
   Section to be waived: *EC* 56366.1 Circle One: *EC* or *CCR*

   Brief Description of the topic of the waiver: Annual Renewal Non Public Agency

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: ___x__ and date of SBE approval _____
   Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

   Does the district have any employee bargaining units? _X_ No __ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s):

   Name of bargaining units and representative(s) consulted:

   The position(s) of the bargaining unit(s): ___ Neutral ___ Support ___ Oppose (*Please specify why*)

   Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: NOT REQUIRED FOR SPECIAL ED

   Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
   Date advisory committee/council reviewed request:

   ___ Approve ___ Neutral ___ Oppose

   Were there any objection? Yes ___ No ___ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

56366.1(h) ~~The Superintendent annually shall review the certification of each nonpublic, nonsectarian school and agency. For this purpose, a certified school or agency annually shall update its application between August **1** and October 31, unless the board grants a waiver pursuant to Section 56101. The Superintendent may conduct an onsite review as part of the annual review.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Our NPA certification renewal application was mailed in for the renewal process and due to a previous employee's oversight it was not sent certified and consequently lost in the mail.

8. Demographic Information:
*(District/school/program)*__ has a student population of _____ and is located in a __(*urban, rural, or small city etc.)*__ in _____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? X_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title:	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-16

ITEM #WC-16

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Santa Rita Union Elementary School District** under authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Summer Prather is assigned to **McKinnon Elementary School**. Waiver Number: 23-3-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the request from the Santa Rita Union Elementary School District to allow the caseload of the resource specialist, Summer Prather, to exceed the maximum caseload of 28 students and to provide instructional aide time of 7.25 hours per day to assist with the increased caseload, exceeding the minimum requirement of 5 hours, per *California Code of Regulations*, Title 5 (5 *CCR*), Section 3100(d)(2).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

California *Education Code* (*EC*) Section 56101 allows the SBE to waive any provision of *EC* or regulation if the waiver is necessary or beneficial when implementing a student individual education program (IEP). 5 *CCR* specifically allows the SBE to approve waivers for resource specialists providing special education services to allow them to exceed the maximum caseload of 28 students by no more than four students. However, there are specific requirements in these regulations which must be met for approval, and if these requirements are not met, the waiver must be denied:

(1) The requesting agency demonstrates to the satisfaction of the State Board of Education (A) that the excess resource specialist caseload results from extraordinary fiscal and/or programmatic conditions and (B) that the extraordinary conditions have been resolved or will be resolved by time the waiver expires.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION (Cont.)

(2) 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.

(3) The waiver confirms that the students served by an affected resource specialist will receive all of the services called for in their individualized education programs.

(4) The waiver was agreed to by any affected resource specialist, and the bargaining unit, if any, to which the resource specialist belongs participated in the waiver's development.

(5) The waiver demonstrates to the satisfaction of the State Board of Education that the excess caseload can be reasonably managed by an affected resource specialist in particular relation to (A) the resource specialist's pupil contact time and other assigned duties and (B) the programmatic conditions faced by the resource specialist, including, but not limited to, student age level, age span, and the behavioral characteristics; number of curriculum levels taught at any one time or any given session; and intensity of student instructional needs.

The SBE receives about a dozen waivers of this type each year, and about 90 percent are approved.

SUMMARY OF KEY ISSUES

A resource specialist is a credentialed teacher who provides instruction and services to children with IEPs that are with regular education teachers for the majority of the school day. The resource specialist coordinates special education services with general education programs for their students.

Santa Rita Union Elementary School District is requesting a caseload waiver for the 2010−11 academic year due to an unusually high number of fifth grade students in the resource specialist program (RSP) at McKinnon Elementary School. It is expected that when these same students matriculate to middle school next year, the RSP caseload will return to a compliant level.

Ms. Summer Prather, resource specialist, when contacted by the CDE on March 25, 2011, confirmed that the information on the signed and dated waiver application is accurate. Further, though Ms. Prather did not work over caseload the immediate past academic year, she did work over caseload in 2008−09. During the 2008–09 academic year, the school district responded to the increased caseload by increasing the RSP aide time to 7.25 hours per school day and has maintained this level of assistance without interruption ever since. The level of aide time Ms. Prather is being provided demonstrates that the increased caseload can be reasonably managed and that student’s needs’ will be met.

SUMMARY OF KEY ISSUES (Cont.)

The Santa Rita Teachers Association's representative, Paulinda Oakes, verified the association's neutral position with the CDE on March 25, 2011. The Parent Advisory Committee (PAC) representative, Ms. Lisa Wise, was consulted on April 20, 2011, and confirmed that the district consulted with the PAC about the waiver and that the PAC raised no objections.

The Department recommends waiver approval. There have been no documented complaints registered with the CDE related to RSP caseloads for this school district.

Demographic Information: McKinnon Elementary School has a student population of 608 and is located in a small city in a rural area of Monterey County.

Authority for Waiver: *EC* Section 56362(c), 5 *CCR* 3100

Period of request: March 15, 2011 to May 27, 2011

Local board approval date(s): Approved by the special education local plan area governance on February 22, 2011, and by the local district board on March 8, 2011.

Bargaining unit(s) consulted on date(s): March 25, 2011

Name of bargaining unit/representative(s) consulted: Paulinda Oakes

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose

Advisory committee(s) consulted: Lisa Wise, Parent Advisory Committee.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 20, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

SW-RSC (Rev. 6-23-2010) http://www.cde.ca.gov/re/lr/wr/

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	7	6	6	1	9	1

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Santa Rita Union School District	Debbie Bradford, Student Services Director	dbradfor@monterey.k12.ca.us

Address:	City:	Zip	Phone (and extension, if necessary):
			831-443-7200 x 210
57 Russell Rd.	Salinas, CA	93906	Fax number: 831-442-1729

Period of request: (month/day/year)	Date approved by district board or COE board, SELPA, or other public education agency as defined by *EC* Section 56500.
From: 3/15/11 To: 5/27/11	SELPA approval 2/22/11 District Board approval 3/8/11

LEGAL CRITERIA

1. Authority for the waiver:

Education Code (EC) Section 56101, and *California Code of Regulations (CCR),* Title 5, Section 3100, resource specialist caseload waiver: "A school district, special education local plan area, county office of education or any other public agency providing special education or related services may request the State Board of Education to grant a waiver of the maximum resource specialist caseload, as set forth in *EC* Section 56362(c), only if the waiver is necessary or beneficial to either; (1) to the content and implementation of a pupil's individualized educational plan (IEP) and does not abrogate any right provided individuals with exceptional needs by specified federal law or; (2) to the agency's compliance with specified federal law."

2. *Education Code* Section to be waived: *EC* 56362 (c): No resource specialist shall have a caseload that exceeds 28 students.

Note: the waiver request may be up to but no more than 4 students above the statutory caseload (32 students maximum).

3. Requesting a caseload waiver for: ___1___ (number) of resource specialists.

Please use separate SW-RSC form for Resource Specialist (RS) teachers who agree with the waiver request, and those who disagree with the waiver request.

Resource specialist(s) name:	Assigned school and mailing address:
1. Summer Prather; at	McKinnon Elementary School 2100 McKinnon Street Salinas, CA 93906
2._____; at	
3._____; at	
4. _____; at	

Please add list of additional teacher names and schools/district as needed.

SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD

SW-RSC (Rev. 6-23-2010)

Per *CCR*, Title 5, Section 3100(d)(4) participation of the resource specialist teacher's bargaining unit is required in the waiver development.

Does (do) the resource specialist(s) belong to an employee bargaining unit(s)? ___ No __X_ Yes

If yes, please complete required information below:

Date(s) the bargaining unit(s) participated in the waiver development: 2/11/11

Name of bargaining unit and/name of representative(s) consulted: Santa Rita Teachers Association/Paulinda Oakes

Telephone contact for bargaining representative: 831-443-7224 x 502

The position(s) of the bargaining unit(s): _X__ Neutral ___ Support ___ Oppose *(Please provide comments)*

Comments (if appropriate):

Note: For each resource specialist attached page 3 of 4 SW-RSC waiver request to be completed by the Administrator and page 4 of 4 SW-RSC waiver request to be completed by the Resource Specialist.

Certification- I hereby certify that the information provided on this application is correct and complete. I also certify this waiver request will never result in the same resource specialist having a caseload in excess of the statutory maximum for more than two years and that this waiver request will result in the resource specialist(s) above having the assistance of an instructional aide at least 5 hours daily.

Signature of Superintendent or Designee: **OR** **/s/ Mike Brusa**	Title: Mike Brusa, Superintendent	Date: 3/8/11
Signature of SELPA Director: Carol Lankford **/s/ Carol Lankford**		Date: 2/22/11

Note: If this waiver request comes from a SELPA Director, a vote by the district of COE governing board is not necessary. Please put the date of SELPA approval in the approval box on the first page of this waiver. This will speed processing.

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Is there a Complaint or Compliance issue regarding Resource Specialist for the LEA ? Yes ___ No _X__

Staff *(Type or print)*:	Staff *(Signature)*:	Date:
Unit Manager *(Type or print)*:	Unit Manager *(Signature)*:	Date:
Division Director *(Type or pint)*:	Division Director *(Signature)*:	Date:
Deputy *(Type or print)*:	Deputy *(Signature)*:	Date:

SW-RSC (Rev. 6-23-2010)

SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD
To be completed by the ADMINISTRATOR

1. SELPA/District/COE Name: Santa Rita Union School District	2. Name of Resource Specialist*: Summer Prather
3. School/District Assignment: Resource Specialist	4. Status: __X_ permanent ___ probational ___ temporary
5. Number of students: (caseload) proposed __32_ students	6. Full time Equivalent (FTE%): One RSP FTE
7. Number of periods or hours taught by Resource Specialist: ___ periods _7.25__ hours	8. Average number of students per hour taught: Four

9. Indicate amount of Instructional Aide Time _7.25__ (hours) to be provided to this resource specialist with this waiver.

Note**: At least 5 hours of aide time is required when the caseload is over 28, per *CCR*, Title 5, Section 3100 (d)(2):**

9. Provide assurance that the waiver will not hinder the implementation of a student's individualized educational program (IEP) for all students involved with the waiver or compliance with specified federal law, per *CCR*, Title 5, Section 3100(d):

This waiver will not hinder the implementation of any individual student's IEP or compliance with specified federal law, per CCR, Title 5, Section 3100(d) due to the current make-up of the RSP caseload and the Instructional Aide (IA) support provided. Several student IEPs indicate consultation services only which are provided in the general ed. classroom. Additionally, the RSP and the full-time IA have worked together for multiple years. The RSP teacher is very efficient with her use of time and, under the supervision of the RSP teacher, the IA has become very skilled at supporting student instruction towards the achievement of IEP goals. Additionally, the site Principal provides excellent support to all staff.

10. Explain what extraordinary fiscal or program circumstances resulted in this request for excess caseload, per *CCR*, Title 5, Section 3100(d):

Without this waiver, students currently attending McKinnon Elementary who are identified as requiring RSP support before the close of the school year will be required to change schools mid-year to receive this service. Approval of this waiver will enable them to finish the school year in the same location where they are currently attending.

11. Indicate how your plan of action to resolve conditions by the time the waiver expires or is denied by the SBE, per *CCR*, Title 5, Section 3100(d)(1):

Upon the expiration of this waiver, the unusually high number of fifth grade students currently on this RSP caseload will matriculate to middle school. This movement alone should resolve the current conditions in anticipation of the 2011-2012 school year. If this waiver is denied by the SBE, any student above 28 identified as requiring RSP services prior to the end of the 2010/2011 school year will be placed in an intra-district transfer to another district elementary school.

Certification – I hereby certify that the information provided on this application is correct and complete.

Administrator/Designee Name *(Type or print)*: Debbie Bradford	Title: Director of Student Services
Authorized/Designee Signature: **/s/ Debbie Bradford**	Date: 2/16/11
Telephone number (and extension): 831-443-7200 x 210	Fax Number: 831-442-1729

*****Resource Specialist as defined in *EC* Section 56362.5

SW-RSC (Rev. 6-23-2010)

SPECIFIC WAIVER REQUEST FOR RESOURCE SPECIALIST CASELOAD
To be completed by the RESOURCE SPECIALIST (Teacher)

Name: Summer Prather	Assigned at: McKinnon Elementary School

1. Is the information in Items 1-9 on the attached SW-RSC-Administrator form an accurate reflection of your current assignments, personal data, FTE, your caseload, number of periods taught and average number of students?
YES _X__ NO ___ If not, please state where you believe these facts or numbers differ:

2. Will all students served received all of the services called for in their IEP's? Can you reasonably manage the excess caseload in relation to the programmatic condition you face, including, but not limited to, student age level, age span, and behavioral characteristics; number of curriculum levels taught at any one time or any given session, and intensity of student instructional needs. Explain below.

   All IEP services will be received based on student groupings, IA assistance, and number of students requiring consultation-only service.

3. Can you reasonably manage the excess caseload in relation to your student contact time, and other assigned duties? Explain below.

   All timelines, contact time, and assigned duties can be managed within current scheduling structure. I have requested this waiver in order not to disrupt the education of students yet to be identified prior to the end of the school year.

4. *EC* Section 56362(c) states that no resource specialist shall have a caseload which exceeds 28 students, per *CCR*, Title 5, Section 3100 Regulations allow your agency to request a waiver of the *EC*, providing certain conditions are met, and that in no circumstance may your caseload be raised to above 32 students.

Indicate your position regarding this waiver request by a check mark in one box.

_X__ AGREE – to the increase in my student caseload from 28 students to not more than 32 students.

____ DISAGREE – to an increase in my student caseload over the 28 students. If disagreeing, provide rational below:

5. Indicate a check mark in the appropriate box:

_X_ I did not have a student caseload of more than 28 during the last school year.

___ I did have a student caseload of more than 28 during the last school year. If yes, please respond below:

(a) Did you have an approved waiver for this caseload?

(b) Specify which months/weeks you were over caseload: ___ to ___

(c) Other pertinent information?

___ I have had a student caseload of **more than** 28 for **MORE** than **Two consecutive years**.

Instructional Aide time currently receiving

_7.25__ Hours (prior to increased caseload).

Any additional aide time with this waiver?

_7.25__ Total hours after increase.

Resource Specialist Signature:	Date Signed:	Telephone/extension: 831-443-7239 X 314
/s/ Summer Prather	2/16/11	Fax Number: 831-443-7240

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item WC-17

ITEM #WC-17

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by nine local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program. Waiver Numbers: 11-3-2011, 19-4-2011, 27-3-2011, 28-4-2011, 35-3-2011, 38-3-2011, 41-4-2011, 114-1-2011, and 203-12-2010.	☒ **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 approved all waiver requests since the deadline for submission of the State Testing Apportionment Information Reports was added to the *California Code of Regulations (CCR)*, and the SBE Waiver Policy 08-#: State Testing Apportionment Informational Report Deadline (available at http://www.cde.ca.gov/re/lr/wr/waiverforms.asp).

Two of the local educational agencies (LEAs) meet the criteria for the SBE Streamlined Waiver Policy, available at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, achieving a Growth Academic Performance Index (API) score of 800 or higher in the current cycle. See last column on Attachment 1.

SUMMARY OF KEY ISSUES

The regulations for the State Testing Apportionment Information Report were amended in 2005 to include an annual deadline of December 31 for the return of the Apportionment Information Report for prior year testing for the Standardized Testing and Reporting (STAR) Program, the California High School Exit Examination (CAHSEE), and the California English

SUMMARY OF KEY ISSUES (Cont.)

Language Development Test (CELDT). The California Department of Education sent letters in September 2005, announcing the new deadline in regulations to every LEA. This deadline was enacted to speed the process of final reimbursement of testing costs to the LEAs.

The LEAs filing for this waiver request missed the 2008-09 or the 2009-10 fiscal year deadline for requesting reimbursement due to the LEA closure during the holiday season or because the staff responsible for this report did not receive the report until after the December 31 deadline. A few LEAs reported that they were undergoing changes in administration and new staff did not realize that there was a December 31 deadline for submitting this report. One LEA reported that their office had moved and their mail was misplaced. CDE staff verified that these LEAs needed the waiver and each LEA had submitted its report after the deadline.

These LEAs are now all aware of this important change in the timeline and understand that they must submit their reports to the Assessment and Accountability Division for reimbursement. Therefore, the Department recommends the approval of these waiver requests as required by regulation prior to final reimbursement.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code**,** was not a participant in the development of the waiver.

Authority for Waiver: *EC* Section 33050

Period of request: December 31, 2009, to July 14, 2011

Local board approval date(s): various dates

Public hearing held on date(s): various dates

Bargaining unit(s) consulted on date(s): various dates

Name of bargaining unit/representative(s) consulted: various

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify)

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: various dates

FISCAL ANALYSIS (AS APPROPRIATE)

If the waivers are approved, these LEAs will be reimbursed for the costs of the STAR, CAHSEE, or the CELDT for the 2008-09 and 2009-10 school years. Total costs are indicated on Attachment 1.

ATTACHMENT(S)

Attachment 1: Local Educational Agencies Requesting Waiver of State Testing Apportionment Information Report Deadline - July 2011 (1 Page)

Attachment 2: General Waiver Request – Oxnard School District (1 Page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

Attachment 3: California English Language Development Test (CELDT) Apportionment Information Report 2009-10 Report (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 4: General Waiver Request – Hanford Joint Union High School District (2 Pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

Attachment 5: Standardized Testing and Reporting Program Apportionment Information Report Spring 2010 (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 6: General Waiver Request – Monterey County Office of Education (1 Page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

Attachment 7: California High School Exit Examination Apportionment Information Report 2008-09 Administrations (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 8: General Waiver Request – Merced Union High School District (1 Page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

ATTACHMENT(S) (Cont.)

Attachment 9: California English Language Development Test (CELDT) Apportionment Information Report 2009-10 Report (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 10: General Waiver Request – Santa Paula Elementary School District (1 Page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

Attachment 11: California English Language Development Test (CELDT) Apportionment Information Report 2008-09 Report (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 12: California English Language Development Test (CELDT) Apportionment Information Report 2009-10 Report (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 13: General Waiver Request – El Centro Elementary School District (1 Page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

Attachment 14: California English Language Development Test (CELDT) Apportionment Information Report 2009-10 Report (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 15: General Waiver Request – San Carlos Elementary School District (1 Page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

Attachment 16: California English Language Development Test (CELDT) Apportionment Information Report 2009-10 Report (1 Page) (A printed copy is available in the SBE Office or the Waiver Office)

Attachment 17: General Waiver Request – South Bay Union School District (1 Page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office)

Attachment 18: Standardized Testing and Reporting Program Apportionment Information Report Spring 2010 (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 19: General Waiver Request – Mountain View-Los Altos Union High School District (1 Page) (Original waiver request is signed and on file at the SBE Office or the Waiver Office)

Attachment 20: California High School Exit Examination Apportionment Information Report 2008-09 Administrations (1 Page) (Original is on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	6	7	2	5	8	7

Local educational agency: Santa Paula Elementary School District	Contact name and recipient of approval/denial notice: Dr. Pam Martens	Contact person's e-mail address: pmartens@spesd.org
Address: (City) (ZIP) 201 S. Steckel Santa Paula 93060		Phone (and extension, if necessary): 805-933-8804 Fax number: 805-933-3023
Period of request: December 31, 2009 to July 14, 2011 From ~~2008 to 2011~~ kak 3/18/11	Local board approval date: (Required) March 8, 2011	Date of public hearing: (Required) March 8, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _**X**_ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _X_ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

Bargaining unit(s) consulted on date(s): February 25, 2011
Name of bargaining unit and representative(s) consulted: Santa Paula Federation of Teachers, Carolyn Ishida, President; California School Employees Association, Sue Carpenter, President
The position(s) of the bargaining unit(s): Neutral X Support Oppose (*Please specify why*) kak 3/21/11

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
How was the required public hearing advertised?
__ Notice in a newspaper _X_ Notice posted at each school _X_ Other: *(Please specify)* City Hall, High School, Public Lib.

4.Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) The **district had a turn over of staff that could have caused the unawareness of the letter.**
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future. **Now, that we are aware of the cycle of the apportionment, we have put it on the calendar to ensure the deadline does not get missed.**

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent of Educational Services	Date: 2/25/11

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Return Form To:

Kerri Wong, AGPA
Statewide Assessment Division
California Department of Education
1430 N Street, Suite #5408
Sacramento, CA 95814

Apportionment Information Report and Certification
California English Language Development Test (CELDT)
2008-09 Report

California Department of Education
Statewide Assessment Division

MUST BE POSTMARKED BY DECEMBER 31, 2009

County Name	Ventura	***District Name***	Santa Paula Elementary
County Code	56	***District Code***	72587
Charter Number	0000		

Title 5, Section 11517.5 of the California Code of Regulations specifies that each school district shall receive an Apportionment Information Report that shall include the number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration (July 1 through June 30). The superintendent of each school district must certify the accuracy of the apportionment information and the report must be postmarked by December 31. If postmarked after December 31, the apportionment information report must be accompanied by the State Testing Apportionment Information Report Waiver request as provided by Education Code Section 33050. The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education (SBE) to enable school districts to meet the requirement of Education Code Section 60851 by the number of pupils in the school district tested with the CELDT during the previous fiscal year. Apportionments will not be processed until all information and certifications are provided. Return the form by U.S. mail to the address above. Do not FAX copies. Keep a copy for your records.

	Annual Assessment *Pupils tested July 1 thru October 31, 2008*	*Initial Assessment* *Pupils tested within 30 days of enrollment*	***TOTAL***
Number of Pupils Tested ***July 1, 2008 – June 30, 2009***	1826	447	**2273**

Certification: I certify that the information provided on this form is accurate and that the district will maintain all related records to be available for audit purposes.

District Superintendent, County Superintendent, or Charter School Director		District CELDT Coordinator	
Joseph D. Condon, Ed.D., Acting Superintendent		Gina Ramirez	
Superintendent's (or Charter School Director's) Signature	Date 4-19-11	District CELDT Coordinator's Signature	Date 4/19/11
Superintendent's (or Charter School Director's) E-mail jcondon@spesd.org	Phone (805) 933-8802	District CELDT Coordinator's E-mail gramirez@spesd.org	Phone (805) 933-8816

California English Language Development Test (CELDT)
Apportionment Information Report
2009-10 Report

Return Form To:

Kerri Wong, AGPA
Assessment, Accountability, and Awards Division
California Department of Education
1430 N Street, Suite #4202
Sacramento, CA 95814

California Department of Education
Assessment, Accountability, and Awards Division

MUST BE POSTMARKED BY DECEMBER 31, 2010

County Name	VENTURA	***District Name***	Santa Paula Elementary
County Code	56	***District Code***	72587
Charter Number	0000		

Title 5, Section 11517.5 of the California Code of Regulations specifies that each local educational agency (LEA) shall receive an Apportionment Information Report that shall include the number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration (July 1 through June 30). The superintendent of each school district must certify the accuracy of the apportionment information and submit the certified report to the California Department of Education, postmarked by December 31. If postmarked after December 31, the Apportionment Information Report must be accompanied by the State Testing Apportionment Information Report Waiver request as provided by California Education Code (EC) Section 33050. The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education (SBE) to enable school districts to meet the requirement of EC Section 60851 by the number of pupils in the school district assessed with the CELDT during the previous fiscal year. Apportionment payments will be processed upon receipt of certified reports. Return the form by U.S. mail to the address above. Faxed reports will not be processed for payment. Keep a copy for your records.

	Annual Assessment July 1 - October 31, 2009	*Initial Assessment Within 30 Days of Enrollment*	***Total Tested***	***Apportionment Amount***
Number of Pupils Tested July 1, 2009 – June 30, 2010	1710	398	**2108**	**$10,540.00**

Certification: I certify that the information provided on this form is accurate and that the district will maintain all related records to be available for audit purposes.

County Superintendent, District Superintendent, or Charter School Director Joseph D.Condon, Ed.D., Acting Superintendent		District CELDT Coordinator Gina Ramirez	
Superintendent's (or Charter School Director's) Signature	Date 4-19-11	District CELDT Coordinator's Signature	Date 4/19/11
Superintendent's (or Charter School Director's) E-mail jcondon@spesd.org	Phone (805) 933-8802	District CELDT Coordinator's E-mail gramirez@spesd.org	Phone (805)933-8816

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	3	6	3	1	2	3

Local educational agency El Centro Elementary School District	Contact name and recipient of approval/denial notice: Olga Criman	Contact person's e-mail address: ocriman@ecesd.org
Address: (City) (ZIP) 1256 Broadway, El Centro, CA 92243		Phone (and extension, if necessary): (760) 352-5712, Ext. 527 Fax number: (760) 370-0694
Period of request: From 12/31/10 to ~~3/8/11~~ 7/14/11	Local board approval date: (Required) March 8, 2011	Date of public hearing: (Required) March 1st, 2011

Jb 6/15/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   __**X** CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No __X_ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Bargaining unit(s) consulted on date(s): February 23, 2011 Spoke with Olga Criman Support by bargaining unit(s). 5/16/11 Keri Wong
   Name of bargaining unit and representative(s) consulted: Susan Gilkison, President of El Centro Elementary Teachers' Union, McKinley School (760) 352-3225

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.
   How was the required public hearing advertised?
   ___ Notice in a newspaper _X Notice posted at each school _X__ Other: *(Please specify)* City Hall (El Centro) District Bulletin Board EL/Migrant District website

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) Transition between former and new coordinator.
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future. El/Migrant coordinator hired. A tickler file is currently being developed.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*. District Board President or Board Representative: Date: March 8, 2011

Signature of Superintendent or Designee:	Title: District Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California English Language Development Test (CELDT)
Apportionment Information Report
2009-10 Report

Return Form To:

Kerri Wong, AGPA
Assessment, Accountability, and Awards Division
California Department of Education
1430 N Street, Suite #4202
Sacramento, CA 95814

California Department of Education
Assessment, Accountability, and Awards Division

MUST BE POSTMARKED BY DECEMBER 31, 2010

County Name	IMPERIAL	*District Name*	El Centro Elementary
County Code	13	*District Code*	63123
Charter Number	0000		

Title 5, Section 11517.5 of the California Code of Regulations specifies that each local educational agency (LEA) shall receive an Apportionment Information Report that shall include the number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration (July 1 through June 30). The superintendent of each school district must certify the accuracy of the apportionment information and submit the certified report to the California Department of Education, postmarked by December 31. If postmarked after December 31, the Apportionment Information Report must be accompanied by the State Testing Apportionment Information Report Waiver request as provided by California Education Code (EC) Section 33050. The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education (SBE) to enable school districts to meet the requirement of EC Section 60851 by the number of pupils in the school district assessed with the CELDT during the previous fiscal year. Apportionment payments will be processed upon receipt of certified reports. Return the form by U.S mail to the address above. Faxed reports will not be processed for payment. Keep a copy for your records.

	Annual Assessment July 1 - October 31, 2009	*Initial Assessment Within 30 Days of Enrollment*	*Total Tested*	*Apportionment Amount*
Number of Pupils Tested July 1, 2009 – June 30, 2010	2318	538	**2856**	**$14,280.00**

Certification: I certify that the information provided on this form is accurate and that the district will maintain all related records to be available for audit purposes.

County Superintendent, District Superintendent, or Charter School Director: Robert Pletka

Superintendent's (or Charter School Director's) Signature: Robert Pletka — Date: 2/1/11

Superintendent's (or Charter School Director's) E-mail: rpletka@ecesd.org — Phone: (760) 352-5712 X5150

District CELDT Coordinator: Olga Criman

District CELDT Coordinator's Signature: Olga Criman — Date: 1/31/11

District CELDT Coordinator's E-mail: ocriman@ecesd.org — Phone: (760) 352-5712 EXT. 527

RECEIVED
FEB 04 2011

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	1	6	9	0	2	1

Local educational agency: San Carlos School District	Contact name and recipient of approval/denial notice: Lynette Hovland	Contact person's e-mail address: lhovland@sancarlos.k12.
Address: 826 Chestnut St. (City) San Carlos, CA (ZIP) 94070		Phone (and extension, if necessary): 650-508-7333 x935 Fax number: 650-508-7340
Period of request: December 31, 2010 - ~~March 10, 2011~~ July 14, 2011	Local board approval date: (Required) 3/10/11	Date of public hearing: (Required) 3/10/11

jb 6/15/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   _**X**_ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No __X_ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

   Bargaining unit(s) consulted on date(s): 3/7/11
   Name of bargaining unit and representative(s) consulted: Daniel Liner, SCTA President Stephanie Blatt, CSEA President
   The position(s) of the bargaining unit(s): ___ Neutral __X_ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper _X__ Notice posted at each school __X_ Other: *(Please specify)* District Office, District Website

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) Due to staff changes at the District Office, this form was not processed on time.
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future. The Curriculum Department has developed a "compliance calendar"

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Craig Baker, Superintendent	Date: 3/10/11

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California English Language Development Test (CELDT)
Apportionment Information Report
2009-10 Report

Return Form To:

Kerri Wong, AGPA
Assessment, Accountability, and Awards Division
California Department of Education
1430 N Street, Suite #4202
Sacramento, CA 95814

California Department of Education
Assessment, Accountability, and Awards Division

MUST BE POSTMARKED BY DECEMBER 31, 2010

County Name	SAN MATEO	***District Name***	San Carlos Elementary
County Code	41	***District Code***	69021
Charter Number	0000		

Title 5, Section 11517.5 of the California Code of Regulations specifies that each local educational agency (LEA) shall receive an Apportionment Information Report that shall include the number of pupils assessed with the CELDT as indicated by the number of answer documents submitted to and scored by the test contractor for each administration (July 1 through June 30). The superintendent of each school district must certify the accuracy of the apportionment information and submit the certified report to the California Department of Education, postmarked by December 31. If postmarked after December 31, the Apportionment Information Report must be accompanied by the State Testing Apportionment Information Report Waiver request as provided by California Education Code (EC) Section 33050. The amount of funding to be apportioned to the school district for the tests shall be calculated by multiplying the amount per administration established by the State Board of Education (SBE) to enable school districts to meet the requirement of EC Section 60851 by the number of pupils in the school district assessed with the CELDT during the previous fiscal year. Apportionment payments will be processed upon receipt of certified reports. Return the form by U.S. mail to the address above. Faxed reports will not be processed for payment. Keep a copy for your records.

	Annual Assessment July 1 - October 31, 2009	*Initial Assessment Within 30 Days of Enrollment*	*Total Tested*	*Apportionment Amount*
Number of Pupils Tested July 1, 2009 – June 30, 2010	166	101	**267**	**$1,335.00**

Certification: I certify that the information provided on this form is accurate and that the district will maintain all related records to be available for audit purposes.

County Superintendent, District Superintendent, or Charter School Director		District CELDT Coordinator	
Craig Baker		Sarah Orton	
Superintendent's (or Charter School Director's) Signature	Date	District CELDT Coordinator's Signature	Date
	3-18-11	Sarah Orton	2/21/11
Superintendent's (or Charter School Director's) E-mail	Phone	District CELDT Coordinator's E-mail	Phone
cbaker@sancarlos.k12.ca.us	650-508-7333	sorton@sancarlos.k12.ca.us	650-743-7833

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	2	6	3	0	3	2

Local educational agency: South Bay Union School District	Contact name and recipient of approval/denial notice: Paul Meyers	Contact person's e-mail address: pmeyers@humboldt.k12.ca.us
Address: (City) (ZIP) 6077 Loma Ave. Eureka 95503		Phone (and extension, if necessary): 707-476-8549 Fax number: 707-476-8968
Period of request: From 12/31/10 to ~~6/30/11~~	Local board approval date: (Required) 1/13/11	Date of public hearing: (Required) ~~1/7/11~~ 1/13/11 kak 1/27/11

Jb 6/15/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one): _**x**_ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   __ CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   __ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _x__ Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.
   Bargaining unit(s) consulted on date(s): 1/5/11 and 1/6/11
   Name of bargaining unit and representative(s) consulted: CTA, California Teachers Association, Tammy Lindblom, President; CSEA, California School Employees Association, Julie Bonomini, President kc 1/27/11
   The position(s) of the bargaining unit(s): ___ Neutral _x__ Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper _x__ Notice posted at each school ___ Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) Deadline overlooked.
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future.
   Calendar the next deadline.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 1/13/11

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California Department of Education (CDE)
Assessment, Accountability, and Awards Division
Report Date: October 15, 2010

Standardized Testing and Reporting Program
Apportionment Information Report
Spring 2010

Return to: Mei Tan, Analyst
Assessment, Accountability, and Awards Division
California Department of Education
1430 N Street, Suite 4202
Sacramento, CA 95814

This report was compiled from Standardized Testing and Reporting (STAR) Program multiple-choice answer documents submitted for scoring for the California Standards Tests (CSTs), California Modified Assessment (CMA), California Alternate Performance Assessment (CAPA), and Standards-based Test in Spanish (STS). Sign, date, and return this report to the CDE by **December 31, 2010**. Certified reports postmarked after December 31, 2010, cannot be paid without a waiver request approved by the State Board of Education. Payment of late apportionment reports is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the tests were administered.

District, County Office, or Charter School Name.

SOUTH BAY UNION ELEMENTARY

RECD APR 15 2011

CDS Code: **12-63032** Charter #: **0000**

		Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Total	Rate	Funding
A	Number of students enrolled on the first day of multiple-choice CST, CMA, or CAPA testing	60	62	57	59	51	0	0	0	0	0	289		
B	Number of students enrolled after the first day of CST, CMA, or CAPA testing who were tested at the school's option	0	0	0	0	0	0	0	0	0	0	0		
C	Total Number Enrolled:	60	62	57	59	51	0	0	0	0	0	289		
D	Number of students administered any portion of the CST or the CMA*	60	61	57	59	49	0	0	0	0	0	286	$2.52	$720.72
E	Number of students with significant cognitive disabilities assessed with the CAPA	0	0	0	0	0	0	0	0	0	0	0	$5.00	$0.00
F	Number of students exempted from testing by written parent or guardian request**	0	0	0	0	0	0	0	0	0	0	0	$0.38	$0.00
G	Number of students with demographic information only who were not tested for any reason other than parent/guardian exemption**	0	1	0	0	2	0	0	0	0	0	3	$0.38	$1.14
H	Total Number of Students:	60	62	57	59	51	0	0	0	0	0	289		$721.86

	Designated Primary Language Test		STS : Grades 2-11												
I	Number of Spanish-speaking EL students receiving instruction in Spanish or who have been enrolled in a U.S. school for less than 12 months (mandated):	Tested	0	0	0	0	0	0	0	0	0	0	0	$2.52	$0.00
		Not tested (demographic information only)	0	0	0	0	0	0	0	0	0	0	0	$0.38	$0.00
J	Number of Spanish-speaking EL students tested with the STS at the option of the district or charter school (optional)		0	0	0	0	0	0	0	0	0	0	0	$2.52	$0.00
K	Total Number of Students:		0	0	0	0	0	0	0	0	0	0	0		$0.00

L	Number of demographic alerts (withheld for each student that the test contractor had to request missing data during the scoring process)***	0	($1.32)	$0.00

* Students taking a combination of the CST and the CMA are only counted once.
**CST, CMA, or CAPA answer document.
***CST, CMA, CAPA, or STS answer document.

TOTAL STAR 2010 APPORTIONMENT [Row H + Row K + (-Row L)]: $721.86

Certification: I certify the accuracy of the apportionment information required per *California Code of Regulations*, Title 5, Education, Division 1, Chapter 2, Subchapter 3.75, Section 862 as reflected on this report (Rows A, D, E, F, G, I, and J).

District Superintendent, County Superintendent, or Charter School Administrator Name	Superintendent or Charter School Administrator Signature	Date	District STAR Coordinator Name
PAUL Meyers	Paul Meyers	4/12/11	Paul Meyers Phone 707-476-8549

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

AIRW (10-2-2009) http://www.cde.ca.gov/re/lr/wr/

STATE TESTING APPORTIONMENT INFORMATION REPORT WAIVER

Send original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	3	6	9	6	0	9

Local educational agency: Mountain View-Los Altos Union High School District	Contact name and recipient of approval/denial notice: Brigitte Sarraf	Contact person's e-mail address: brigitte.sarraf@mvla.net
Address: (City) (ZIP) 1299 Bryant Ave. Mountain View, CA 94040		Phone (and extension, if necessary): 650-940-4677 Fax number: 650-940-4653
Period of request: Dec 31, 2009 - July 14, 2011 From ~~08/18/08~~ to ~~06/05/09~~	Local board approval date: (Required) March 14, 2011	Date of public hearing: (Required) March 14, 2011

jb 4/6/11 **LEGAL CRITERIA** **jb 4/6/11**

1. Under the general waiver authority of *Education Code* 33050-33053, the *California Code of Regulations (CCR)* section(s) to be waived (check one):
   __ STAR – *CCR*, Title 5, Section 862(c)(2)(A) …postmarked by December 31…
   X CAHSEE – *CCR*, Title 5, Section 1225(b)(2)(A) …postmarked by December 31…
   __ CELDT – *CCR*, Title 5, Section 11517.5(b)(1)(A) …postmarked by December 31…

2. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No **X** Yes If yes, please complete required information below. This requirement can be achieved with a telephone call. It is vital to complete this section as not consulting the bargaining units is a reason for denial of a general waiver request.

   Bargaining unit(s) consulted on date(s): February 18th, 2011 **jb 4/6/11**
   Name of bargaining unit and representative(s) consulted: Todd Wangsness, District Teachers Association, President
   The position(s) of the bargaining unit(s): ___ Neutral **X** Support ___ Oppose (*Please specify why*)

3. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?
   __ Notice in a newspaper **X** Notice posted at each school ___ Other: *(Please specify)*

4. Describe briefly the circumstances that caused you to miss the apportionment deadline(s). (If more space is needed, please attach additional pages.) **Changing of staff**
5. Describe guidelines that have been put into place for staff so that this deadline will not be missed in the future**: A system has been put in place that will trigger the filing of this report in a timely manner, independently of who is responsible for this work.**

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: Brigitte Sarraf	Title: Associate Superintendent, Educational Services	Date: April 6th, 2011

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Nov. 23 2010 10:40AM P2
FAX NO. :9163190962
FROM :CAHSEE/PFT OFFICE

California Department of Education
Statewide Assessment Division
High School Exit Examination Office
Report Date: October 30, 2009

California High School Exit Examination
Apportionment Information Report
2008-09 Administrations

RECEIVED
DEC 13 2010
BY: CAHSEE OFFICE

Return report to: Gayle Jamerson, Staff Services Analyst
Statewide Assessment Division
1430 N Street, Suite 5408
Sacramento, CA 95814

This report was compiled from information taken from the California High School Exit Examination (CAHSEE) answer documents submitted for scoring for those examinations administered during the fiscal year July 1, 2008 through June 30, 2009. **All students are reported in the grade indicated on the answer document (Answer docs indicating Post-Grade 12 Students does not change the grade level).** In order to receive apportionment funds, the superintendent or charter school administrator must sign, date, and return this report to the California Department of Education (CDE) by **December 31, 2009. If postmarked later than December 31, 2009, the report must be accompanied by a waiver request as provided for by California *Education Code* Section 33050. The CDE cannot release payment of the apportionment funding for late reports without a waiver approved by the State Board of Education.**

District, County Office, or Charter School Name: **Mountain View-Los Altos Union High**

CD Code: **43 69609**

Administration	Row	Pupils Tested with Any Portion (Subject) of Exam	A Grade 10	B Grade 11	C Grade 12	D Adult	E Grade Unknown	F Totals A+B+C+D+E	G Rate	H Tested Apportionment Total (F x G)
July 29-30, 2008	1	Number Pupils Tested	0	0	12	0	0	12	$3.00	$36.00
October 7-8, 2008	2	Number Pupils Tested	0	0	41	14	0	55	$3.00	$165.00
November 4-5, 2008	3	Number Pupils Tested	0	145	38	3	0	186	$3.00	$558.00
December 6 & 13, 2008 (Sat.)	4	Number Pupils Tested	0	0	0	0	0	0	$3.00	$0.00
February 3-4, 2009	5	Number Pupils Tested	882	0	22	12	0	916	$3.00	$2,748.00
March 17-18, 2009	6	Number Pupils Tested	27	81	28	9	0	145	$3.00	$435.00
May 12-13, 2009	7	Number Pupils Tested	0	0	35	2	0	37	$3.00	$111.00
	8	**Total Pupils Tested:**	909	226	176	40	0	1,351	$3.00	$4,053.00

Administration	Row	Pupils Not Tested (Census) Demographic Information Only	Grade 10		Rate	Not Tested Apportionment Total (A x G)
February 3-4, 2009	9	Number Pupils Not Tested	21		$0.32	$6.72
March 17-18, 2009	10	Number Pupils Not Tested	0		$0.32	$0.00
	11	**Total Pupils Not Tested:**	21		$0.32	$6.72
				TOTAL APPORTIONMENT (Row 8 + Row 11):		$4,059.72

Certification: I certify (1) that all secure test materials have been returned and (2) the accuracy of the apportionment information, required per *California Code of Regulations*, Title 5, Section 1225, as reflected on this report.

Superintendent or Charter School Administrator Name	Superintendent's or Charter School Administrator's Signature	Date	District CAHSEE Coordinator Name	CAHSEE Coordinator Phone
Brigitte Sarraf	Brigitte Sarraf Assoc Supt	12/7/2010	Vicky Craff	650-940-4677

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-1

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by eight districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average. Waiver Numbers: 3-4-2011, 25-4-2011, 9-5-2011, 32-4-2011, 4-5-2011, 55-4-2011, 17-4-2011, and 86-2-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education recommends that the class size penalty in grades four through eight be waived provided the class size average is not greater than the recommended new maximum average shown on Attachment 1 for each district. These waivers do not exceed two years less one day, therefore, *Education Code (EC)* Section 33051(b) will not apply, and the districts must reapply to continue the waiver.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the State Board of Education (SBE) has approved all grades four through eight class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

The various districts listed on Attachment 1 request a waiver of subdivisions (b) and (e) of *EC* Section 41376, which relates to class size penalties for grades four through eight that reduce a district's revenue limit funding. A class size penalty is assessed for grades four through eight if a district exceeds the greater of the district's class size average in 1964 or the statewide average set in 1964. Statewide, 292 districts out of 883 or 33 percent of districts in California can have a class size average greater than 29.9.

The districts listed on Attachment 1 request to temporarily increase class sizes in grades four through eight to reduce expenditures in light of the statewide budget crisis and reductions in revenue limit funding. Since fiscal year 2008-09 most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over

SUMMARY OF KEY ISSUES (Cont.)

one-quarter of what they are due have been deferred until the next year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when the district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures.

The Department recommends the class size penalty in grades four through eight be waived for each district provided the class size average is not greater than the recommended new maximum shown on Attachment 1. Should the district exceed this limit, the class size penalty would be calculated as required by statute. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). "The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver."

Demographic Information: See each individual waiver

Authority for Waiver: *EC* Section 33050

Period of request: See Attachment 1 for period of request

Local board approval date(s): See each individual waiver

Public hearing held on date(s): See each individual waiver
Position of bargaining unit(s): See Attachment 1 for Certificated Units, others on each

individual waiver.

Bargaining unit(s) consulted on date(s), name of unit: See each individual waiver

Advisory committee(s) consulted, Dates and objections: See each individual waiver

Public hearing advertised by (choose one or more): See each individual waiver

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Bear Valley Unified School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: Buena Park Elementary School District General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: Capistrano Unified School District General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 5: Dos Palos Oro Loma Joint Unified School District General Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 6: Hemet Unified School District General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 7: Newark Unified School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 8: Sundale Union Elementary School District General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 9: La Habra City Elementary School District General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Districts Requesting Grades 4-8 Class Size Penalty Waivers

Waiver Number	District	SBE Streamlined Waiver Policy	1964 Class Size Average (Current Maximum)	District's Requested Class Size Average	CDE Recommended Class Size Average (New Maximum)	Period of Request	Certificated Bargaining Unit Position/Current Agreement	Estimated Annual Penalty Without Waiver	Fiscal Status
3-4-2011	Bear Valley Unified School District	No API 791	34.4	36.5	36.5	July 1, 2011 to June 30, 2012	Neutral No Need to Negotiate	$175,038	Positive
25-4-2011	Buena Park Elementary School District	YES API 811	29.9	34	34	July 1, 2011 to June 29, 2013	Support Need to Negotiate	$1,831,282	Positive
9-5-2011	Capistrano Unified School District	YES API 862	29.9	33	33	July 1, 2011 to June 29, 2013	Neutral No Need to Negotiate	$11,240,135	Qualified
32-4-2011	Dos Palos Oro Loma Joint Unified School District	NO API 702	29.9	35	35	July 1, 2011 to June 29, 2013	Neutral No Need to Negotiate	$713,137	Negative
4-5-2011	Hemet Unified School District	NO API 754	29.9	34	34	July 1, 2011 to June 30, 2012	Oppose Need to Negotiate	$5,651,531	Positive
55-4-2011	Newark Unified School District	No API 763	29.9	33	33	July 1, 2010 to June 29, 2012	Neutral No Need to Negotiate	2010-11 No Penalty 2011-12 $675,000	Positive
17-4-2011	Sundale Union Elementary School District	YES API 845	29.9	35	35	July 1, 2011 to June 29, 2013	Support No Need to Negotiate	$166,010	Positive
86-2-2011	La Habra City Elementary School District	No API 760	30.1	33	33	July 1, 2011 to June 29, 2013	Oppose No Need to Negotiate	$1,527,818	Positive

Prepared by the California Department of

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: _

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in Word and back-up material waiver@cde.ca.gov

CD CODE						
3	6	6	7	6	3	7

Local educational agency: Bear Valley Unified School District	Contact name and Title: Tim Larson, Director of Personnel/Educational Services	Contact person's e-mail address: tim_larson@bearvalleyusd.org
Address: (City) (State) (ZIP) 42271 Moonridge Rd. Big Bear Lake CA 92315		Phone (and extension, if necessary): (909) 866-4631 Fax Number: (909) 866-2040
Period of request: (month/day/year) From: July 1, ~~2010~~ 2011 To: June 30, 2012	Local board approval date: (Required) March 30, 2011	Date of public hearing: (Required) March 30, 2011

ECC 5/11/11 LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376(b) Circle One: *EC* or *CCR*

   Topic of the waiver: Waive class size penalty for grades 4 - 8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: N/A and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No XX Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 22, 2011

   Name of bargaining unit and representative(s) consulted: Bear Valley Educator's Association (BVEA) - Scott Hird, President & Debi Burton, Vice President kak4/15/2011

   The position(s) of the bargaining unit(s): XX Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): Although it is understood this is a necessary fiscal decision, it increases the struggles for teachers and students alike. BVEA anticipates that the district will use this on a limited basis and work with teachers to alleviate this burden when other options are available. There is language in the contract that provides for teacher support when contractual class size limits are exceeded. This request will likely enact that language.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   Notice in a newspaper XX Notice posted at each school XX Other: *Posted in all local post offices (4)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Budget Advisory Committee (District Committee) (Includes 2 parents, 1 former student) kak 4/15/2011 per T. Larson

Date the committee/council reviewed the waiver request: March 18, 2011

Were there any objection(s)? No ___ Yes XX (*If there were objections* p*lease specify)*
Though they approved of the waiver for its necessity, the Budget Advisory Committee issued the following statement: "We regret having to request such drastic measures to preserve our district's financial solvency. We believe these steps are necessary due to the ongoing budget crisis and political turmoil at the state level."

6. *Education Code* or *California Code of Regulations* section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a strike out key).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Bear Valley Unified School District (BVUSD) is seeking to temporarily increase the average class size in grades 4 – 8 in order to reduce expenditures. The district believes this waiver is necessary to facilitate local agency operations due to fiscal challenges faced by school districts across the state. The Bear Valley Unified School District has faced enormous fiscal challenges since 2007. BVUSD has made approximately $2,500,00.00 in expenditure and program reductions during the last three years. For 2010-11, the district cut $410,000.00 in programs, class size, and employee compensation. In addition the district has experienced a decline in enrollment of 232 students from 2007 – 2010. The district projects that enrollment will continue to decline and contribute to an unfavorable budget outlook over the next several years.

Increasing the class size to 36.5 ~~with no class exceeding 38.5~~ **ECC 5/11/11** in grades 4 – 8 for the ~~2010/11 and~~ **EC 5/11/11** 2011/12 school years would save the district an estimated $500,000.00. To achieve such a savings and avoid being penalized for exceeding state requirements, Bear Valley Unified School District would require a waiver of Education Code Section 41376 (b) and (e) regarding the State's average class size in 1964 of 34.4 (BVUSD Average) in grades 4 – 8. This waiver would allow Bear Valley Unified important flexibility and the time over the next fiscal year to reassess its financial position to lower class sizes.

Bear Valley Unified School District has a long history of strong academic achievement. Though small, the district has 4 California Distinguished Schools. Our four elementary schools have an API in excess of 800, while our middle school and high school achieved API scores of 778 and 788 respectively on the most recent CST.

Our continuing focus on using current curriculum, refining teaching strategies, providing professional development, and providing teacher collaboration time has helped prepare our teachers to face the challenges these budgetary constraints have presented. Increased class sizes will present a unique set of challenges, but we believe these challenges will be met through continued dedication and hard work focused on providing the best that we are able for our students.

8. Demographic Information:
Bear Valley Unified School District has a student population of 2,756 and is located in rural Big Bear Lake in San Bernardino County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No XX Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No XX Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Interim Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	4	5	6

Local educational agency: **Buena Park School District**	Contact name and Title: Kelvin Tsunezumi Assistant Superintendent, Admin Svcs	Contact person's e-mail address:Ktsunezumi@bpsd.k12.ca.us
Address: 6885 Orangethorpe Ave. (City) Buena Park (State) CA (ZIP) 90620		Phone (and extension, if necessary): (714) 736-4262 Fax Number: (714) 522-0843
Period of request: (month/day/year) From: ~~08/16/11~~ (71/11) To: ~~08/14/13~~ (6/29/13)	Local board approval date: (Required) 04/11/11	Date of public hearing: (Required) 04/11/11

ECC 5/18/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) and (e) Circle One: *EC* or *CCR*

   Topic of the waiver: Class Size Standards, Grades 4-8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires. n/a

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 3/15/11, 3/21/11 & 3/22/11

   Name of bargaining unit and representative(s) consulted: Buena Park Teacher's Association (BPTA). Representatives Consulted: BPTA President, Brian Eldridge plus members of BPTA negotiating team (Kay Santos, Cameron Reiter, Ken Slaughter, Carl Hermreck and Philip Lutfi) and Steve Balentine (California Teachers Association Field Representative).

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*) Please see attachment.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _X_ Notice in a newspaper __ Notice posted at each school _X_ Other: *(Please specify)* District Office & Web site

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: DAC/DELAC and representatives from School Site Council

   Date the committee/council reviewed the waiver request: 3/8/11

   Were there any objection(s)? No ___ Yes _X__ (*If there were objections please specify)*

   While the proposal was approved via a majority vote there were objections raised. Please see attachment for details.

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Education code states that class size averages in grades 4-8 cannot exceed the larger of 29.9 or the class size average of the district in 1964 (i.e. 27.4). For Buena Park, the limit is therefore 29.9. With current state and federal budgetary challenges, coupled with 7+ years of declining enrollment, we are facing significant financial challenges. Although we have implemented numerous reductions to offset reduced funding levels (including implementation of 9 furlough days, shortening of the school year, elimination of positions, health & welfare concessions, etc.), we need to continue to further reduce personnel costs to remain fiscally solvent. We are requesting a temporary waiver (2 years less one day) of Education Code 41376(b) penalties to allow for an average class size in grades 4-8 from 29.9:1 to 34:1. Without this waiver, other reductions would need to be made that negatively affects core academic programs such as reading, mathematics and science.

The current collective agreement specifies the following, “The target ratio of teachers to regular program pupils in grades 4-8 in the district shall be twenty-nine (29) pupils. In no case shall the ratio exceed thirty-one (31) per classroom.” The district is currently negotiating with our association to permit larger class sizes consistent with this waiver request.

Note: If the state budget crisis eases and Education is spared from further cuts, it is the district’s intent to maintain class sizes at levels consistent with current education code requirements.

8. Demographic Information:
The Buena Park School District has a student population of approximately 5,296 students and is located in Buena Park (*Small City*) in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Question 3 – Collective Bargaining Unit Information

The Buena Park Teacher's Association (BPTA) supports this class size waiver request. However, both BPTA and the district agree that any proposed changes to the current contract language on class size are subject to negotiations per Government Code Section 3540.3549.

Question 5 – Advisory Committee or School Site Council

While the class size waiver proposal was approved (via majority vote), there were concerns. The objections and concerns raised at this meeting included the ability of the teachers to handle a larger class size, possible negative impact to the learning environment, children's health and safety, and physical classroom capacity constraints.

The district responded that we will at all times ensure the health and safety of our students, that physical classrooms constraints would be incorporated in developing the actual class size for a classroom and that the district would work proactively with administrators, teachers, our teacher's association and staff to mitigate the impact of larger classes.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	4	6	4

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Capistrano Unified School District	**Ron Lebs, Deputy Superintendent Business and Support Services**	rlebs@capousd.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
33122 Valle Road	**San Juan Capistrano**	**CA**	**92675**	**(949) 234-9211** Fax Number: **(949) 248-9563**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **June 29, 2013**	**April 27, 2011**	**April 27, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) and (e) Circle One: ***(EC)*** or *CCR*

   Topic of the waiver: **Waive Class Size Penalty for grades 4 through 8**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **N/A** and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): April 19, 2011

   Name of bargaining unit and representative(s) consulted: Capistrano Unified Education Association
   Christine Balentine, Executive Director; Vicki Soderberg, President

   The position(s) of the bargaining unit(s): X Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate): per Ron Lebs 5/18/11 jb

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   X Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)* **Publication Date: April 17, 2011**

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: **School site council meetings were held at all 37 elementary and 12 middle school schools during the month of April, see attached.**

   Were there any objection(s)? No ___ Yes X (*If there were objections please specify)* **Generally, school site councils preferred that other options be explored prior to increasing class sizes, but there were no outright objections. Additionally, they expressed concerns about how class size increases would impact the delivery of instruction and the loss of teaching jobs.**

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attached

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Capistrano Unified School District (CUSD) is facing a projected budget shortfall in 2011-2012 of $15-$20 million. CUSD has made approximately $90 million in expenditure and program cuts since 2006-2007.

In order to maintain maximum flexibility in providing options to balance the budget in 2011-2012, the district requests a waiver to increase the districtwide average number of pupils per each full-time equivalent (FTE) teacher from the current 29.9 (per Education Code 41376) to 33 in grades 4 through 8.

8. Demographic Information:

Capistrano Unified School District has a student population of 51,500 and is located in Southern Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No **X** Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: **Superintendent**	Date: **April 29, 2011**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Capistrano Unified School District Waiver request
Supplemental Information Item #5

Capistrano Unified School District
Class Size Waiver School Site Council Discussion Dates

Elementary Schools	
Ambuehl	4/20
Arroyo Vista ES	4/19
Don Juan Avila ES	4/21
Barcelona	4/21
Bathgate	4/12
Benedict	4/21
Bergeson	4/20
Canyon Vista	4/19
Castille	4/21
Chaparral	4/21
Concordia	4/20
Crown Valley	4/20
RH Dana	4/19
RH Dana ENF	NA
Del Obispo	4/11
Hankey ES	4/12
Hidden Hills	4/14
Kinoshita	4/27
Ladera Ranch ES	4/18
Laguna Niguel	4/25
Las Flores	4/21
Las Palmas	4/22
Lobo	4/18
Malcom	4/12
Marblehead	4/21
Moulton	4/21
Oak Grove	4/20
Oso Grande	4/20
Palisades	4/14
Reilly	4/19
San Juan	4/18
Tijeras Creek	4/19
Viejo	4/21
Vista Del Mar ES	4/19
Wagon Wheel	4/19
George White	4/13
Wood Canyon	4/26

Middle Schools	
Aliso Viejo	4/20
Arroyo Vista MS	4/19
Don Juan Avila MS	4/21
Bernice Ayres	4/20
Marco Forster	4/21
Hankey MS	4/12
Ladera Ranch MS	4/29
Las Flores MS	4/13
Newhart	4/19
Niguel Hills	4/19
Shorecliffs	4/21
Vista del Mar MS	4/24

Capistrano Unified School District Waiver request
Supplemental Information Item #6

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver:

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	4	7	5	3	1	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Dos Palos Oro Loma Joint Unified School District	Dr. Brian Walker, Superintendent	bwalker@dpol.net

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
2041 Almond St.	Dos Palos	CA	93620	209-392-0200 Fax Number: 209-392-3347

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/11 To: ~~6/30/14~~ 6/29/13	February 17, 2011	February 17, 2011

ECC 5/16/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): (b), (e) 41376 Circle One (*EC*) or *CCR*

   Topic of the waiver: Increase class size to 35:1 in grades 4 – 8.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 2/9/2011, 2/16/2011

   Name of bargaining unit and representative(s) consulted: CTA, Shelia Ryskamp, President – CSEA, Albia Castillo

   The position(s) of the bargaining unit(s): X Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper X Notice posted at each school X Other: *(Please specify)* District Web Page

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: Bryant Middle School – Site Council – 12/14/2010
   Marks Elementary School – Site Council – 01/13/2011

   Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).
Ed Code 41376(b): For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of fulltime equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:
   1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, ~~for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~
   2) ~~Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~
   3) ~~Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

   ~~**Ed Code 41376(e):** If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.
Education Code provides class size averages in grades 4-8 for the DPOLJUSD cannot exceed 29.9. DPOLJUSD is currently in negative fiscal status. The combination of State budget cuts and our severe declining enrollment has made our situation dire. With the current State and Federal budgetary challenges suggesting additional budget cuts and our negative general fund cash balance, the District has to cut $4 million dollars of expenditures. The current general fund budget is $19 million. Though we have implemented several reductions, we must reduce personnel costs drastically to remain solvent. Ed Code restrictions on class sizes in grades K-8 inhibit our ability to reduce staffing costs. Through collaboration with our bargaining units, the Governing Board has revised the District's policy on class size averages. We need the flexibility of class size ratios of 35:1 for grades 4-8. This waiver would allow for average class sizes in grades 4-8 to increase from 29.9 to 35:1. The larger class sizes will allow the District to finalize the necessary expenditure reductions. The Governing Board approved a certificated reduction of 38.6 FTE. The District is dedicated to recover from the negative certification but needs the State Board of Education's help. It is in the best interest of all District students to maintain local control. We are working diligently to remain fiscally solvent while providing a quality educational program for our students.

8. Demographic Information:
Dos Palos Oro Loma JUSD has a student population of 2400 and is located in a rural farming community in Merced County. The current unemployment rate in South Dos Palos is 47.2%. The District is expecting further significant decline in enrollment because of the lack of jobs. Families are moving to find work elsewhere.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 4/18/2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X__

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	7	0	8	2

Local educational agency: Hemet Unified School District	Contact name and Title: Vincent Christakos, Assistant Supt. Business Services	Contact person's e-mail address: vchristakos@hemetusd.k12.ca.us
Address: (City) (State) (ZIP) 1791 W Acacia Ave., Hemet CA 92545		Phone (and extension, if necessary): 951-765-5100 ext. 5000 Fax Number: 951-766-0629
Period of request: (month/day/year) From: July 1, 2011 To: June 30, 2012	Local board approval date: (Required) May 3, 2011	Date of public hearing: (Required) May 3, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 (b) and (e) Circle One: ***EC*** or *CCR*

   Topic of the waiver: Class Size Penalty Grade 4 through 8

2. If this is a renewal of a previously approved waiver, please list Waiver Number: 19-12-2009 and date of SBE Approval_May 2010_
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): April 18, 2011

   Name of bargaining unit and representative(s) consulted: Hemet Teachers Association, James Brigham, President

   The position(s) of the bargaining unit(s): __ Neutral __ Support _X_ Oppose (*Please specify why*)

   Comments (if appropriate): HTA does not believe larger class sizes are appropriate because it will mean teachers will be laid off.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _X__ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   District English Learner Advisory Committee

   Date the committee/council reviewed the waiver request: April 20, 2011

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attached EC 41376 (b) and (e)

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The district requests a waiver to increase the district-wide average number of pupils per each full-time equivalent (FTE) from the current 29.9 per FET (per ED 41376) to 34 per FTE for grades 4 through 8.

To meet the requirements of EC 41376, the district has to continually add staff at an average cost per new teacher of $70,000. In light of the current statewide budget crisis and the recuded revenue to school districts, this additional staffing cost has a detrimental effect on the district's operations and ability to provide services.

8. Demographic Information:
(*District/school/program)*__ has a student population of ___22,500___ and is located in a __(*urban, rural, or* ***small city*** *etc.)*__ in _____ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Assistant Superintendent, Business Services	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Item 6: EC to be waived
To Waive the Class Size Penalty (Grades 4-8) Prospectively or Retroactively
EC 41376 (b) and (e)

The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with and enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a)of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall~~

~~make the following computation:~~

~~He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall
make the following computation:

He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section, a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular schoolday. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular schoolday.

For purposes of this section, the number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Newark Unified School District	*Robert Pascual, Director of Fiscal Services*	*rpascual@nusd.k12.ca.us*

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): *(510) 818-4116*
5715 Musick Avenue	*Newark*	*CA*	*94560*	Fax Number: *(510) 818-4130*

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
CG June 29, 2012 From: July 1, 2010 To: ~~June 30, 2012~~	April 19, 2011	April 19, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): *41376 (b) and (e)* Circle One: *EC* or *CCR*

Topic of the waiver: *Waiver of Class Size Penalty for exceeding the 1964 district average (28.3) and/or statewide average (29.9) number of pupils per teacher in Grades 4-8. The District requests to increase the average to 33:1.*

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _*N/A*_ and date of SBE Approval_*N/A*_
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _*X*_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): *February 11, 2011 (NTA) and February 22, 2011 (CSEA)*

Name of bargaining unit and representative(s) consulted: *Newark Teachers Association (NTA) Chris Baugh, President and California Schools Employees Association (CSEA)Mary Clemeps, President*

The position(s) of the bargaining unit(s): _*X*_ Neutral __ Support __ Oppose (*Please specify why*)

Comments (if appropriate): *N/A*

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_*X*_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: *District English Learner Advisory Committee (DELAC) and School Site Councils of Musick Elem, Newark Junior HS, Lincoln Elem, Snow Elem, Graham Elem, Schilling Elem, Bunker Elem, Kennedy Elem, Milani Elem and Newark Memorial HS*
Date the committee/council reviewed the waiver request: *Feb 23, Mar 3, Mar 9, Mar 16, Mar 18, Mar 21, Apr 4 and Apr 12, 2011*
Were there any objection(s)? No ___ Yes _*X*_ (*If there were objections please specify)*
There are some objections to the increase in class sizes due to how larger class sizes would affect students and the quality of education.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   See Attachment

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   Newark Unified School District, in an effort to resolve budgetary deficits in excess of $5.2 million for the 2010-2011 fiscal year, is attempting to create as many viable options to resolve the fiscal crisis. Increase of pupils/teacher ratio in grades 4-8 exceeding the 1964 district average (28.3) and/or statewide average (29.9) was negotiated, board approved and implemented in 2010-2011. With current state and federal budgetary challenges, we are facing huge deficits. Though we have implemented numerous reductions to offset these deficits, we must reduce personnel costs to remain solvent. The waiver of Education Code 41376 (b) and (e) will allow us to distribute necessary reductions over a greater number of grade levels, thus alleviating the impact of budgetary deficits. The district is seeking to temporarily increase pupil/teacher ratio in grades 4-8 to33:1 in order to reduce expenditures and to avoid the class size penalty. The increase in class size will allow the district greater flexibility in grades 4-8 as we work to remain fiscally solvent while providing quality education to our students.

8. Demographic Information:
   Newark Unified School District has a student population of 6,654 and is located in Alameda County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: *Superintendent*	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Newark Unified School District
General Waiver Request Attachment

#6 *Education Code or California Code of Regulations* section to be waived:

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Sundale Union Elementary School District	Terri Rufert, Superintendent	Terri.rufert@sundale.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 559-688-7451
13990 Avenue 240	Tulare	CA	93274	Fax Number: 559-688-5905

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2011 To: 6/29/2013	4/12/2011	4/12/2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR*

Portions of EC 41376B & E

Topic of the waiver: Waiver of class size penalty for exceeding the 1964 district and/or statewide average (29.9) number of pupils per teacher in grades 4-8.

2. If this is a renewal of a previously approved waiver, please list Waiver Number: and date of SBE Approval
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 4/5/2011

Name of bargaining unit and representative(s) consulted: Sundale Teachers' Association – Stacy Tiner, President
Kak 4/19/11

The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*) per T. Rufert

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper X Notice posted at each school X Other: *(Please specify)* Posted local businesses

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: 03/31/2011 Sundale School Site Council

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a strike out key).

See Attachment A

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Sundale Union Elementary School District is seeking to temporarily increase class size in grades 4-8 in order to provide flexibility in staffing and reduce expenditures during this period of severely reduced revenue. Sundale is a small rural school. Due to an influx of students in 4th-8th, the class size will range from 34-35. There are not enough students in any grade level or two consecutive grade levels to make hiring 1-2 teachers for additional classes academically or cost effective. Hiring additional teachers would severely affect the programs for English Language learners, and academic interventions for socioeconomically disadvantaged and special needs students. These programs are making significant progress in closing the achievement gap and raising our overall academic scores.

In addition, The district faces a $622,692-$1,269,737 budget shortfall for 2011-12 and 2012-13 due to the State budget crisis and sharp revenue reductions. The District would save approximately $521771 by increasing the average class size in grades 4-8 to 35 students. This requires a waiver of Ed. Code section 41376(b) and (e), which states that a district will be penalized for exceeding the greater of its average class size in grades 4-8 or the statewide average of 29.9. The District is asking that Ed Code section 41376(b) and (e) and the associated penalty be waived in order to increase class sizes for grades 4-8 to an average not to exceed 35 students. This waiver would end on June 28, 2013, at which time it is anticipated that the District will be in a better position to reinstate lower class sizes.

8. Demographic Information:
Sundale Union Elementary School District has a student population of 750 (estimating 800 next year, based on kindergarten enrollment) and is located in a rural area in Tulare County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.		
Signature of Superintendent or Designee:	Title: Superintendent	Date: 4/12/2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment A Item 6 Education Code Being Waived:

To Waive the Class Size Penalty (Grades 4-8)

41376(b) ~~For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:~~

~~(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the~~
~~Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.~~

~~(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.~~

~~(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision
(a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a)of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	5	6	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
La Habra City School District	Susan Belenardo, Superintendent	sbelenardo@lhcsd.k12.ca.us

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
500 N. Walnut Street La Habra, Ca 90631	562-690-2301 Fax Number: 562-690-4154

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/11 To: ~~6/30/13~~ 6/29/13	2/10/2011	1/27/2011

kak 2/25/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 41376 Circle One: *EC* or *CCR*

   Topic of the waiver: Waiver of Class Size Penalties

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _x_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): La Habra Education Association, January 7, 2011

   Name of bargaining unit and representative(s) consulted: La Habra Education Association, Danette Brown, President

   The position(s) of the bargaining unit(s): __ Neutral __ Support _x_ Oppose (*Please specify why*)

   Comments (if appropriate): Increased class size would impact student learning.

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper __x_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
   District English Language Advisory Committee, Advisement and Information Committee
   Date the committee/council reviewed the waiver request: January 14, 2011 January 20, 2011

   Were there any objection(s)? No _x___ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

41376(b) and (e) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section. ~~(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Education Code states that class size averages in grades 4-8 cannot exceed either 29.9 or the class size average of the district in 1964. In the La Habra City School District this limit is 30.1:1. The La Habra City School District continues to face financial challenges due to reductions in State revenue and our overall expenses exceeding our revenue. In investigating opportunities to reduce spending the Board of Education is applying for a Class Size Waiver for grades 4-8. The waiver requests to increase the average class size in grades 4-8 from the current 30.1 to 33. We feel it is in the best interest of all district students to have greater flexibility in class size grades 4-8 as we work to remain fiscally solvent while providing a quality educational program for our students.
We maintain our commitment to providing all students a rigorous educational program and our teachers ongoing professional development. We will provide teachers training in strategies for working with the additional students in their classes in our professional development plan.

8. Demographic Information:

La Habra City School District has a student population of 5373 and is located in La Habra (small city) in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: February 10, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-2

ITEM #W-2

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by three districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32. Waiver Numbers: 26-4-2011, 3-5-2011 and 27-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE), based on the finding below, recommends that the class size penalties for kindergarten through grade three will be waived provided that the overall average and individual class size average is not greater than the CDE recommended class size on Attachment 1. The waivers do not exceed two years less one day.

Finding: Given the extremely challenging fiscal environment for California schools and the specific financial circumstances described by the district in its waiver application, the State Board of Education (SBE) finds that the district's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the district would otherwise incur without approval of the requested waiver. In these circumstances, the SBE finds specifically that the class size penalty provisions of *Education Code (EC)* sections 41376 and 41378 will, if not waived, prevent the district from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the district's application.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the SBE has approved all kindergarten through grade three class size penalty waiver requests as proposed by CDE. Before the September 2009 board meeting, no waivers had been submitted since 1999.

SUMMARY OF KEY ISSUES

Education Code Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for kindergarten through grade three if the associated statutory class size requirements prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics. Under this authority, these districts are requesting a waiver of subdivisions (a) through (e) of *EC* Section 41378, which provide for a penalty if the average class size on a district-wide basis for kindergarten exceeds 31 students or individual class levels exceed 33, and subdivisions (a), (c), and (d) of *EC* Section 41376, which provide for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of this and similar waivers is warranted.

The districts listed on Attachment 1 request flexibility to temporarily increase class sizes in kindergarten through grade three to reduce expenditures in light of the statewide budget crisis and the associated reductions in revenue limit funds provided by the state. Since fiscal year 2008−09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next year.

A positive certification is assigned to a school district that will meet its financial obligations in the current and two subsequent fiscal years. A qualified certification is assigned when the district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. Each district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures.

Each district states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

The Department recommends, based on the finding above, that the class size penalties for kindergarten through grade three be waived provided the overall average and the individual class size average is not greater than the CDE recommended level shown on Attachment 1. Should any district exceed this new limit, the class size penalty would be applied per statute.

Demographic Information: See each individual waiver

Authority for Waiver: *EC* Section 41382

Period of request: See each individual waiver and Attachment 1

Local board approval date(s): See each individual waiver

Position of bargaining unit(s): See Attachment 1 for Certificated Units, others on each individual waiver.

Bargaining unit(s) consulted on date(s), name of unit: See each individual waiver.

Advisory committee(s) consulted, Dates and objections: See each individual waiver.

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amounts for each district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver. (1 page)

Attachment 2: Buena Park Elementary School District Specific Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: Ripon Unified School District Specific Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: Twin Rivers Unified School District Specific Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Districts Requesting Kindergarten through Grade 3 Class Size Penalty Waivers

Waiver Number	District	SBE Streamlined Waiver Policy	Allowable Class Size Average (Current Maximum)	District's Requested Class Size Average	CDE Recommended Class Size Average (New Maximum)	Period of Request	Certificated Bargaining Unit Position/Current Agreement	Estimated Annual Penalty Without Waiver	Fiscal Status
26-4-2011	Buena Park Elementary School District	YES API 811	Kindergarten: Overall average 31; no class larger than 33; Grades 1-3: Overall average 30; no class larger than 32	K-3 Overall average 34; no class larger than 36	K-3 Overall average 34; no class larger than 36	July 1, 2011 through June 29, 2013	Support Need to negotiate	$1,343,428	Positive
3-5-2011	Ripon Unified School District	YES API 823	Kindergarten: Overall average 31; no class larger than 33; Grades 1-3: Overall average 30; no class larger than 32	K-3 Overall average 32; no class larger than 34	K-3 Overall average 32; no class larger than 34	July 1, 2011 through June 29, 2013	Support No need to negotiate	$471,714	Positive
27-5-2011	Twin Rivers Unified School District	NO API 725	Kindergarten: Overall average 31; no class larger than 33; Grades 1-3: Overall average 30; no class larger than 32	Kindergarten: Overall average 33; no class larger than 34; Grades 1-3: Overall average 33; no class larger than 35	Kindergarten: Overall average 33; no class larger than 34; Grades 1-3: Overall average 33; no class larger than 35	July 1, 2010 through June 29, 2012	Neutral No need to negotiate	2010-11 $216,424 2011-12 $3.6 million	Positive

Prepared by the California Department of Education
June 6, 2011

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	0	6	6	4	5	6

Local educational agency: **Buena Park School District**	Contact name and Title: Kelvin Tsunezumi Assistant Superintendent, Admin Svcs	Contact person's e-mail address:Ktsunezumi@bpsd.k12.ca.us
Address: 6885 Orangethorpe Ave. (City) Buena Park (State) CA (ZIP) 90620		Phone (and extension, if necessary): (714) 736-4262 Fax number: (714) 522-0843
Period of request: (month/day/year) From: 08/16/11 To: 08/14/13	Local board approval date: (Required) 04/11/11	

LEGAL CRITERIA

1. Authority for the waiver: _EC__ Specific code section: _41382_
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive**.** **Please see attachment for details.**

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) 41376 a, c, d and 41378 Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver:
Class size ratios: Grades Kindergarten through Grade three (K-3).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: __n/a__ and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 3/15/11, 3/21/11, & 3/22/11

Name of bargaining units and representative(s) consulted: Representatives consulted: BPTA President, Brian Eldridge plus members of BPTA negotiating team (Kay Santos, Cameron Reiter, Ken Slaughter, Carl Hermreck, and Philip Lutfi) and Steve Balentine (California Teachers Association Field Representative).

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*) Please see attachment.

5. Advisory committee or school site council that reviewed the waiver. Name: DAC/DELAC Committee and representatives from School Site Council.

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request:

_X_ Approve ___ Neutral ___ Oppose

Were there any objection? Yes _X_ No ___ (If there were objections please specify) Please see attachment for details.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

   Please see attachment.

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Education code states that class size averages in Kindergarten cannot exceed 31 students (with no classes larger than 33) and in grades 1-3 cannot exceed 30 students (with no classes larger than 32). With current state and federal budgetary challenges, coupled with 7+ years of declining enrollment, we are facing significant financial challenges. Although we have implemented numerous reductions to offset reduced funding levels (including implementation of 9 furlough days, shortening of the school year, elimination of positions, health & welfare concessions, etc.), we need to continue to further reduce personnel costs to remain fiscally solvent. We are requesting a temporary waiver (2 years less one day) of Education Codes 41376(a, c & d) and 41378 penalties to allow for an average class size in grades K-3 up to 34:1. Without this waiver, other reductions would need to be made that negatively affects core academic programs such as reading, mathematics and science.

Note: If the state budget crisis eases and Education is spared from further cuts, it is the district's intent to maintain class sizes at levels consistent with current education code requirements.

8. Demographic Information:
   The Buena Park School District has a student population of approximately 5,296 students and is located in Buena Park (*Small City*) in Orange County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Question 1 – Authority for Waiver

EC 41382. The principal of any elementary school maintaining kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, 04 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provisions of such sections.

At the August 2010, State Board of Education meeting the Members made the following finding:

Given the extremely challenging fiscal environment presently facing all California schools and the specific financial circumstances described by the district in its waiver application, the Board finds that the district's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the district would otherwise incur without the requested waiver. In these circumstances, the Board finds specifically that the class size penalty provisions of Education Code section 41376 and 41378 will, if not waived, prevent the district from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the district's application.

Question 4 – Collective Bargaining Unit Information

The Buena Park Teacher’s Association (BPTA) supports this class size waiver request. However, both BPTA and the district agree that any proposed changes to the current contract language on class size are subject to negotiations per Government Code Section 3540.3549.

Buena Park School District

Question 5 – Advisory Committee or School Site Council

While the class size waiver proposal was approved (via majority vote), there were concerns. The objections and concerns raised at this meeting included the ability of the teachers to handle a larger class size, possible negative impact to the learning environment, children's health and safety, and physical classroom capacity constraints.

The district responded that we will at all times ensure the health and safety of our students, that physical classrooms constraints would be incorporated in developing the actual class size for a classroom and that the district would work proactively with administrators, teachers, our teacher's association and staff to mitigate the impact of larger classes.

Question 6 – Education Code or California Code of Regulations section to be waived

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following

Question 6 (Continued)

manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above. ~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	9	6	8	6	5	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
RIPON UNIFIED SCHOOL DISTRICT	Kathy Coleman, Director of Curriculum and Categorical Programs	kcoleman@sjcoe.net

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
304 North Acacia Avenue	Ripon	California	95366	(209) 599-2131 Fax Number: (209) 599-6271

Period of request: (month/day/year)	Local board approval date: (Required)
From: ~~08/08/2011~~ 7/1/11 To: ~~008/07/2013~~ 6/29/13	4/28/11

ECC 5/18/11 **LEGAL CRITERIA**

1. Authority for the waiver: General Waiver Authority 33050-33053 Specific code section: EC 41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: EC 41376 (a)(c)(d) and EC 41378 Circle One**:** ***EC*** or *CCR*

Brief Description of the topic of the waiver: Waiver of the class size penalty for exceeding the following parameters: Kindergarten: Average class size not to exceed 31 students; no class larger than 33 students. Grades 1-3: Average class size not to exceed 30 students; no class larger than 32 students.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: N/A and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 4/28/11

Name of bargaining units and representative(s) consulted: 1) California School Employees Association, Association President Jeff Harden Brook 2) Ripon Unified District Teacher's Association (RUDTA), Association President, Vice-President and Bargaining Chairman Eric Dambrosio Robyn Udavi, Chuck Carley

per Kathy Coleman **5/13/11 jb**

The position(s) of the bargaining unit(s): ___ Neutral _X__ Support ___ Oppose (*Please specify why*)

Comments (if appropriate): If class sizes exceed the Ed Code maximum, RUDTA would like to meet with District Personnel and brainstorm remedies, including the possibility of adding a class back or instructional aides if financially feasible.

5. Advisory committee or school site council that reviewed the waiver. Name: District Advisory Committee

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: ~~N/A~~ May 13, 2011

__x_ Approve ___ Neutral ___ Oppose per Kathy Coleman **5/13/11 jb**

Were there any objection? Yes ___ No _x__ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

EC 41378. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes. (a~~) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class. (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33). (c) The total number of pupils by which the average class size in the district exceeds 31. (d) The greater number of pupils as determined in (b) or (c) above. (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

EC 41376 (a)(c) and (d) The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district: (~~a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~ (b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year. (3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.~~ (c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year. (d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

The District is seeking to increase class size in grades K-3 in order to reduce expenditures. Due to budget cuts it has become necessary to layoff eight teachers and close eight primary grade classrooms. We have been able to maintain CSR through this year, but unfortunately with shrinking funds, we have no choice but to push our K-3 classes to approximately thirty students for 2011/2012. Some classes will be forced to rise above the average required (K=31, 1-3=30) and possibly, above the maximum (K=33, 1-3=32). The District is requesting that Ed Code Section 41376 (a) (c) and (d) and Ed Code Section 41378 and the associated penalties be waived in order to increase class size until additional revenues are available.

8. Demographic Information:
Ripon Unified School District has a student population of 3,050 and is located in Ripon, a *small city* in San Joaquin County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Director of Curriculum and Categorical Programs	Date: 4/28/11
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Addendum

The Ripon Unified School District has worked diligently to provide the essential core academic programs to our students by investing every available resource to maintain as many teacher and student programs as possible. With staff reductions, the challenging fiscal environment and deferrals, the imposition of financial penalties for exceeding class size requirements would have a devastating impact on our ability to continue to provide quality instruction in all core subjects, including reading and mathematics. Our intent is not to load classes to the maximums, but to allow some flexibility as enrollment and appropriate staffing needs shift. Increasing class sizes will enable the district to reduce expenditures through lay-off's and attrition, provide realignment of expenditures with projected revenues to reduce deficit spending, and utilize potential penalty costs for educational programs.

K-3 classes currently average 23.33 students. Class sizes for 2011-2012 are currently estimated to be kindergarten at 26.9, 1st grade at 30.6, 2nd grade at 27.4, and 3rd grade at 29.5. We are requesting flexibility with the waiver to allow us an average of 32, with a maximum of 34 in each of our K-3 classes.

Further dramatic loss of funding, should the waiver not be approved, would compromise the District's ability to continue effective educational programs that are innovative and developing practices that serve the needs of our students. The waiver is essential in our efforts to continue improvement in the core instructional programs for all of our Ripon USD students.

The RUDTA contract reads…

6.1 The preferred teacher-pupil ratios are:

- **6.1.1** K-8 each full time assignment per teacher - 1:25 **The impact of mainstreamed SDC students will be considered when class assignments are made that cause the number of students assigned to a regular education teacher to exceed this desired ratio.**
- 6.1.2 9-12 each average full time assignment per teacher - 1:25
- 6.1.3 PE grades K-12 each full time assignment per teacher - 1:35
- 6.1.4 Vocal and instrumental music - no established ratio
- 6.1.5 ISGI & SDC - no established ratio
- **6.1.6 Resource Specialist – as defined by law**

6.2 **Should any teacher be assigned to a regular teaching assignment with a number of students that exceeds the ratio in 6.5 by more than 15%, the Administration shall meet with the teacher within** 15 **teaching days** of the beginning of the school year and, in subsequent cases, within 5 school days of determining or being notified that the enrollment has exceeded the ratio in 6.5 by more than 15% **for the purpose of determining the impact of the increased enrollment on that class, and to discuss remedies to the problems that are a result of the increase.** The discussion between the administrator and the teacher will focus on the impact the increased class size is having on the instructional program and what needs to be done to address that impact. **Possible remedies may include, but not be limited to, the District providing additional aide time, additional preparation time, additional supplies, additional staff, additional classrooms, additional equipment and/or teaching stations,** and/or **extra teaching compensation.**

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	4	7	6	5	0	5

Local educational agency: Twin Rivers Unified School District	Contact name and Title: Kate Ingersoll Executive Director Fiscal Services	Contact person's e-mail address: Kate.Ingersoll@twinriversusd.org
Address: (City) (State) (ZIP) 3222 Winona Way North Highlands CA 95660 (physical address – 5115 Dudley Blvd, McClellan CA 95652)		Phone (and extension, if necessary): (916) 566-1600 x 50124 Fax number: (916) 566-3593
Period of request: (month/day/year) From: ***7/01/2010*** To: ***6/29/2012***	Local board approval date: (Required) ***May 24, 2011***	

LEGAL CRITERIA

1. Authority for the waiver: EC 41382 Specific code section*:* ***41376 through 41382***
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive*.*

See attachment #1

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: ***EC 41376 a, c, d & 41378 a, b, c, d, e*** Circle One: ***EC*** or *CCR*
Brief Description of the topic of the waiver: ***Waive class size penalties for exceeding class sizes for kindergarten and grades 1-3.***

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: ***N/A*** and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No ***X*** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): ***TRUSD = May 12, 2011***

Name of bargaining units and representative(s) consulted: ***Twin Rivers Unified Educators; Chris Moran, Chief Negotiator***

The position(s) of the bargaining unit(s): ***X*** Neutral ___ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: ***Community members of the Budget Advisory Committee***

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: ***May 10, 2011***

X Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No ***X*** (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

   See attachment #1

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   See attachment #1

8. Demographic Information:
   (District/school/program) ***Twin Rivers Unified School District has a student population of 27,000 and is located in an urban area in Sacramento County.***

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) ***X*** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? ***X*** No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: ***Superintendent***	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Twin Rivers Unified School District
Attachment #1
Specific Waiver Request – Class Size Penalties
Period Request July 1, 2010 – June 29, 2012

Application Section 1 - Authority for the waiver
EC 41382 - The principal of any elementary school maintaining Kindergarten classes or regular day classes in grades 1-3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378 or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendations, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378 or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provisions of such sections.

Application Section 6 - Education Code section to be waived (prospectively or retroactively)
(requested waiver items are lined out)

EC 41376 (Grades 1-3)

The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

~~(a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class. For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner: (1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board. (2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.
(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

~~(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.~~

~~(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

EC 41378 (kindergarten)

The superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes.
~~(a) The number of pupils enrolled in each kindergarten classes, the total enrollment in all such classes, and the average number of pupils enrolled per class.~~
~~(b) The total number of pupils which are in excess of thirty three (33) in each class having an enrollment of more than thirty three (33).~~

~~(c) The total number of pupils by which the average class size in the district exceeds 31.~~
~~(d) The greater number of pupils as determined in (b) or (c) above.~~
~~(e) He shall compute the product pursuant to subdivision (d) of this section by ninety seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.~~

Application Section 7 - Desired Outcome/Rationale

Twin Rivers Unified School District is requesting a two year waiver to increase class sizes for grades K-3 for 2010-2011 and 2011-2012. The specific request is to increase grades 1–3 from 30 students per FTE to 33 with a maximum individual class size of 35 students and to increase kindergarten from 31 students per FTE to 33 with a maximum individual class size of 34 students. If the waiver is not approved, class size penalties of over $182,000 will occur in 2010-2011 for grades 1-3 and penalties for 2011-2012 could be as high as $3.6 million for K-3 grades. However, our 2011-2012 projected staffing and enrollment reflects penalties similar to 2010-2011.

The purpose of the waiver is not to permanently increase class size, but allow some flexibility through this State fiscal crisis. We have made between $20-40 million in budget reductions (one-time and on-going) each year over the last three years but our expenditures continue to be higher than our revenue.

The Twin United Educators (TRUE) contract with the District states “The class size limitations contained in the Article, including class size maximums, averages and all other numerical values regarding class size, will not be in force, and further agree that class size overage payments will not be made for grades K-6 and 7-12 during school years 2008-2009 through 2011-2012”.

We believe that the District’s continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be compromised by the current and potential penalties the District would otherwise incur without the requested waiver.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-3

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **San Jacinto Unified School** District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) relating to class size penalties for grades one through three. For grades one through three, the overall class size average is 30 to one with no class larger than 32. Waiver Number: 7-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends approval with conditions, based on the finding below, recommends that the class size penalties for grades one through three will be waived provided that the overall average and maximum class size average are not greater than the CDE recommended amounts on Attachment 1. The waiver does not exceed two years less one day.

Finding: Given the extremely challenging fiscal environment for California schools and the specific financial circumstances described by the district in its waiver application, the State Board of Education (SBE) finds that the district's continued ability to maintain the delivery of instruction and required program offerings in all core subjects, including reading and mathematics, will be seriously compromised by the financial penalties the district would otherwise incur without approval of the requested waiver. In these circumstances, the SBE finds specifically that the class size penalty provisions of *Education Code* (*EC)* Section 41376 will, if not waived, prevent the district from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the district's application.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since September 2009, the SBE has approved all grades one through three class size penalty waiver requests. Before the September 2009 board meeting, no waivers had been approved since 1999.

SUMMARY OF KEY ISSUES

Education Code Section 41382 allows the SBE to approve an exemption to the class size penalties assessed for grades one through three if the associated statutory class size requirements prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics. Under this authority, the district is requesting a waiver of subdivision (a), (c), and (d) of *EC* Section 41376, which provides for a penalty if the average class size on a district-wide basis for grades one through three exceeds 30 students, or individual class levels exceed 32. Since this particular statute regarding class size limits was written in 1964, given the current fiscal environment in school districts statewide, consideration of this and similar waivers is warranted.

The district listed on Attachment 1 requests to temporarily increase class sizes in kindergarten through grade three to reduce expenditures in light of the statewide budget crisis and the associated reductions in revenue limit funds provided by the state. Since fiscal year 2008-09, most districts have experienced at least a 10 percent reduction in revenue limit funding in addition to the elimination of statutory cost of living adjustments. Furthermore, payments for over one-quarter of what they are due have been deferred until the next year

A positive certification is assigned to a school district that will meet its financial obligation in the current and two subsequent fiscal years. A qualified certification is assigned when the district may not meet its financial obligations for the current or two subsequent fiscal years. A negative certification is assigned when a district will be unable to meet its financial obligations for the remainder of the current year or for the subsequent fiscal year. The district's most recent status is identified on Attachment 1.

To address funding reductions, districts are using various options in addition to increasing class size, including categorical program spending flexibility, reducing the number of days in the school year, employee furloughs, salary reductions, layoffs, or school closures.

The district states that without the waiver, the core reading and math programs will be compromised by the fiscal penalties incurred. The estimated annual penalty should the district increase the class size average without a waiver is provided on Attachment 1.

The Department recommends, based on the finding above, that the class size penalty for grades one through three be waived provided the overall average and the maximum class size average are not greater than the CDE recommended level. Should the district exceed this new limit, the class size penalty will be calculated as the statute requires.

Demographic Information: San Jacinto Unified School District has a student population of 9,090 and is located in an urban city in Riverside County.

Authority for Waiver: *EC* Section 41382

Period of request: July 1, 2010 to June 29, 2012

Local board approval date(s): May 17, 2011

Bargaining unit(s) consulted on date(s):
San Jacinto Teachers Association (SJTA) on April 2011
Classified School Employees Association (CSEA) on April 21, 2011

Name of bargaining unit/representative(s) consulted:
San Jacinto Teachers Association, Stefanie Seward, President
Classified School Employees Association, Deborah Cornett, President

Position of bargaining unit(s) (choose only one):
☒ Neutral - (SJTA) ☒ Support – CSEA ☐ Oppose

Comments (if appropriate):

Advisory committee(s) consulted: District Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: May 12, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

See Attachment 1 for estimated penalty amount for the district without the waiver approval.

ATTACHMENT(S)

Attachment 1: List of Waiver Numbers, Districts, and Information Regarding Each Waiver (1 page)

Attachment 2: San Jacinto Unified School District Specific Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Waiver Number	District	SBE Streamlined Waiver Policy	Allowable Class Size Average (Current Maximum)	District's Requested Class Size Average	CDE Recommended Class Size Average (New Maximum)	Certificated Bargaining Unit Position/Current Agreement	Estimated Annual Penalty Without Waiver	Fiscal Status
7-5-2011	San Jacinto Unified School District	No API 717	Overall average 30; no class larger than 32	Overall average 33; no class larger than 33	Overall average 33; no class larger than 33	Neutral No need to negotiate	2010-11 $223,147 2011-12 $225,000	Positive

Prepared by the California Department of Education
June 6, 2011

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _x_
Renewal Waiver: __

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	6	7	2	4	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
San Jacinto Unified School District	Shari L. Fox, Ed.D. Superintendent	sfox@sanjacinto.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
2045 S. San Jacinto Avenue	San Jacinto	CA	92591	(951) 929 – 7700, X 4202 Fax number: (951) 658 - 3574

Period of request: (month/day/year)	Local board approval date: (Required)
From: 7/1/2010 To: ~~6/30/2012~~ 6-29-2012 **ECC 5-19-11**	May 17, 2011 approval pending APPROVED 5/17/11

LEGAL CRITERIA **per Dinah Neri 5/18/11 jb**

1. Authority for the waiver: Education Code Specific code section: 41382
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive.

See Attachment #1

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) portions of 41376 (a), (c) and (d) Circle One: (*EC*) or *CCR*
Jb 5/18/11
Brief Description of the topic of the waiver: To waive Class Size Penalty for Grades 1-3 EC 41376 (a), (c) and (d)

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: _N/A___ and date of SBE approval _____
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): San Jacinto Teachers Association on April 26, 2011
Classified School Employees Association on April 21, 2011

Name of bargaining units and representative(s) consulted:
San Jacinto Teachers Association, Stefanie Seward, President **5/18/11 jb**
The position(s) of the bargaining unit(s): **_X _** Neutral __ Support ___ Oppose (*Please specify why*)
Classified School Employees Association, Deborah Cornett, President **5/18/11 jb**
The position(s) of the bargaining unit(s): ___ Neutral **_X_** Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: District Advisory Committee

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: May 12, 2011 (Pending Review)

_x_ Approve ___ Neutral ___ Oppose **per Dinah Neri** **5/18/11 jb**

Were there any objection? Yes ___ No _x_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

   See Attachment #2

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   See Attachment #3

8. Demographic Information:
   The San Jacinto Unified School District has a student population of 9,090 and is located in an urban city in Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **_X_** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? **_X_** No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent	Date: 4/27/2011
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment #1: Application Section 1 – Authority for Waiver

EC 41382. The principal of any elementary school maintaining Kindergarten classes or regular day classes in grades 1 to 3, inclusive, may recommend to the governing board of the school district, or the governing board may adopt a resolution determining, that an exemption should be granted from any of the provisions of Section 41376, 41378, or 41379 with respect to such classes on the basis that such provisions prevent the school and school district from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes. Upon approval of such recommendation, or the adoption of such resolution, the governing board shall make application to the State Board of Education on behalf of the school for an exemption for such classes from the specified provisions. The State Board of Education shall grant the application if it finds that the specified provisions of Section 41376, 41378, or 41379 prevent the school from developing more effective educational programs to improve instruction in reading and mathematics for pupils in the specified classes and shall, upon granting the application, exempt the school district from the penalty provision of such sections.

Attachment #2: Application Section 6 - Education Code to be waived –
Class Size Penalty (Grades 1-3)

EC 41376 (a),(c), and (d).

41376. The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:

(a) ~~For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.~~

~~For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.~~

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30, 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

(c) ~~He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by that reported for purposes of the first principal apportionment of the preceding year.~~

(d) ~~If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.~~

Attachment #3: Application Section 7 - Desired Outcome/Rational

Revise: The District's average class size remains at 27.9 for grades 1-3 for the 2010-2011 school year. A 34 student penalty was the result of just four classes at one elementary school whose enrollment grew to 33 students per class in the third grade only. The San Jacinto School District requests a waiver to temporarily increase the maximum allowable class size in grades 1-3 to 33 for the following reasons:

1. Students enrolled in classrooms do not want to leave their classmates and teacher to transfer into another class or school midway through the year when a new classroom opens up due to increased enrollment. Our elementary students are showing growth in reading and math, according to our District benchmarks, and a disruption such as this can affect achievement.
2. New students coming into the district are few. To avoid the disruption of moving students mid-year from one class to another to balance the numbers, the District would have needed to open a new class with only a few students, resulting in additional salary costs not anticipated and ineffective staffing. Furthermore, a class with only a few students loses the educational benefit of cooperative grouping, class discussion, and peer tutoring.
3. All students, regardless of the size of their class, are being effectively instructed through differentiation and timely intervention. These intervention programs are being implemented as a replacement program for reading and pull out program for math, and moving students around would affect the pacing of these programs.

Therefore, the District believes that this waiver request is necessary for program reasons as well as to facilitate local agency operations due to fiscal challenges faced by school districts across the State. Over the past three fiscal years, the San Jacinto School District has had to address revenue cuts of approximately $25 million. If the waiver is not approved, the district could suffer an additional loss of revenue of more than $175,000. This loss will affect funding for core and supplemental intervention programs currently at our elementary sites.

This waiver would end on June 30, 2012, at which time the district would reassess its educational needs related to class sizes.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-4

ITEM #W-4

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Tustin Unified School District** to waive California *Education Code* Section 37202, the equity length of time requirement for A. G. Currie Middle School (due to a longer day for intervention). Waiver Number: 1-5-2011	☒ **Action** ☒ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: the local educational agency (LEA) update the LEA plan (20 *United States Code* [*U.S.C.]* 6312) to provide the appropriate revisions to the "description of the actions the LEA will take to assist its low-achieving schools identified under section 1116 as in need of improvement" as written in Elementary and Secondary Education Act (ESEA) Section 1112(b)(1)(L). The LEA must send the updated LEA plan with plan changes indicated to the CDE District and School Improvement Division by August 15, 2011. Failure to do so could result in revocation of this waiver. If the LEA wishes to extend this waiver beyond one year, the LEA will need to provide specific evidence of improved student academic achievement as indicated in the LEA plan revision.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) received similar waiver requests in 1997 and 1998 and all were approved. This is the first of this type of waiver request for a school in program improvement (PI).

Tustin Unified School District (TUSD) meets the criteria for the SBE Streamlined Waiver Policy, available on the CDE Waivers Policies Web page at http://www.cde.ca.gov/re/lr/wr/documents/sbestreamlined.doc, achieving an API of 850 in the 2010 scoring cycle. Therefore, this waiver is being scheduled for the consent calendar.

SUMMARY OF KEY ISSUES

Schools receiving Title I funding are designated as PI after not making adequate yearly progress (AYP) two years in a row. The ESEA, when reauthorized in 2001, designated a series of actions for the LEA and the PI school to take to improve the academic

SUMMARY OF KEY ISSUES (Cont.)

performance of the school. The stages of PI corrective actions and restructuring, the technical assistance by the LEA, and involvement in decisions by the faculty and school council are found in 20 *U.S.C.* 6316.

Waivers of the equity length of time requirement are required if a district does not provide an equal amount of time to all students in the district in grade levels one through twelve. A. G. Currie Middle School (MS) is currently in PI Year 5 after entering PI status in 2003. Staff at A. G. Currie MS would like to extend the school day by 45 minutes in order to offer additional intervention support to students who are functioning below grade level as defined by the district. They believe that students need additional time to increase the rigor and to meet the state standards and increase success. The waiver request describes the funding to be used and the plan for monitoring and evaluation of this additional period.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: A. G. Currie MS has a student population of 670 and is located in the city of Tustin in Orange County.

Authority for Waiver: *EC* Section 33050

Period of request: September 1, 2011, to September 30, 2012

Local board approval date(s): May 9, 2011

Public hearing held on date(s): May 9, 2011

Bargaining unit(s) consulted on date(s): April 28, 2011

Name of bargaining unit/representative(s) consulted: Tustin Educators Association, TJ Prendergast, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (specify)
Tustin Library, Tustin District IRC, and Tustin Unified School District Administration Office.

Advisory committee(s) consulted: A. G. Currie Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 28, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no state-wide or local fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	8	5	3	7	7

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Tustin Unified School District On behalf of A. G. Currie Middle School	Kathie Nielsen, Chief Academic Officer	knielsen@tustin.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
300 South "c" Street	Tustin	CA	92782	714 730-7301 ext. 309 Fax Number: 714-838-6396

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 09/1/11 To: 09/30/12	May 9, 2011	May 9, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): ~~37207~~ (a) Circle One: ***EC*** or *CCR*
37202 jb 6/22/11
Topic of the waiver: Equity Length of Time

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No x Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): April 28, 2011

Name of bargaining unit and representative(s) consulted: TUSTIN EDUCATORS ASSOCIATION, TJ Prendergast, President – Vote taken by all teachers at the site – approval 85%. Participation will be optional and teachers will be fairly compensated.

The position(s) of the bargaining unit(s): __ Neutral _x_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper __x_ Notice posted at each school __X_ Other: *(Please specify)*
TUSD District IRC, TUSD Administration Office

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
A. G. Currie School Site Council and English Learning Advisory Council

Date the committee/council reviewed the waiver request: March 14, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

37202. (a) Except if a school has been closed by order of a city or a county board of health, or of the State Board of Health, on account of contagious disease, or if the school has been closed on account of fire, flood, or other public disaster, the governing board ~~of a school district shall maintain all of the elementary day schools established by it for an equal length of time during the school year and all of the day high schools established by it for an equal length of time during the school year.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

A.G. Currie is a School-wide Title 1 school that is in year 5 Program Improvement. Traditional PI interventions have recently been put into place with a restructuring of the administration, staff, and delivery of instruction. A careful review of current data indicates that students need additional time to increase the rigor and to meet the state standards.

Administration and staff at A. G. Currie would like to extend the school day by 45 minutes, in order to offer additional intervention support to students who are functioning below grade level. Adding an additional section to their instructional day will allow students to maintain an elective, add additional intervention support, or participate in a double block course to increase success.

8. Demographic Information:
A. G. Currie has a student population of 670 students and is located in the city of Tustin in Orange County. The student demographics include 55% Second Language Learners and 85% Socioeconomically disadvantaged students.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee: Kathie Nielsen	Title: Chief Academic Office	Date: April 30, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-5

ITEM #W-5

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Lemoore Union High School District** to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, which require a district-wide election to establish new trustee areas. Waiver Number: 140-1-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) has approved numerous similar waiver requests during the past few years—the most recent at the May 12, 2011 SBE meeting for the Central Union Elementary School District (SD), in Kings County, and the Visalia Unified SD, in Tulare County.

SUMMARY OF KEY ISSUES

Approval of this waiver request would: (1) eliminate the election requirement for the creation of trustee areas for future governing board elections in the Lemoore Union High School District (UHSD), located in Kings County; and (2) require the governing board of the Lemoore UHSD to be elected by trustee area, beginning with the next regular governing board election.

The county committee on school district organization (county committee) has the authority to approve or disapprove the adoption of trustee areas for school district governing board elections. Pursuant to California *Education Code* (*EC*) Section 5020, county committee approval of trustee areas constitutes an order of election; thus, voters in the district have final approval over the adoption of the trustee areas.

A number of districts in California are facing existing or potential litigation under the California Voting Rights Act of 2001 over their at-large election systems. To help protect itself from potential litigation, the Lemoore UHSD is taking action to establish new trustee areas and adopt trustee-area election processes. In order to establish a by-trustee area election process as expeditiously as possible, the Lemoore UHSD is requesting that the SBE waive the requirement that the trustee areas and the trustee-area process be approved at a district-wide election. The waiver request has

SUMMARY OF KEY ISSUES (Cont.)

been reviewed by California Department of Education (CDE) staff and a determination has been made that: (1) the waiver was initiated by resolution of the governing board; and; (2) there was no significant public opposition to the waiver at the public hearings held by the governing board.

It is the opinion of CDE staff that none of the grounds specified in *EC* Section 33051 that authorize denial of a waiver exists. Moreover, approval of the waiver will not eliminate existing legal rights of currently seated board members or affect any options (e.g., determinations of boundaries or methods of election) for the trustee areas.

The CDE recommends that the SBE approve, for Lemoore UHSD, the request to waive *EC* Section 5020 in its entirety and portions of *EC* sections 5019, 5021, and 5030.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). "The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver."

Demographic Information: The Lemoore UHSD has a student population of 2,100 and is located in a small city in Kings County.

Authority for Waiver: *EC* Section 33050

Period of request: November 1, 2010, to October 29, 2012

Local board approval date(s): December 9, 2010

Public hearing held on date(s): December 9, 2010

Bargaining unit(s) consulted on date(s): January 7, 2011

Name of bargaining unit/representative(s) consulted: Lemoore Federation of Teachers, Local 3219: Larry Guevara, President; Lemoore Federation of Classified Employees, Local 4870: Catherine Zaharris, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify):

Advisory committee(s) consulted: Lemoore Union High School Site Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 14, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver requests will not have negative fiscal effects on any local or state agency.

ATTACHMENT(S)

Attachment 1: General Waiver Request (6 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X__
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	6	6	3	9	8	2

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Lemoore Union High School District	Dwight M. Miller, Superintendent	dmiller@luhsd.k12.ca.us

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
5 Powell Ave., Lemoore, CA 93245	559 924-6610 Fax Number: 559 924-9212

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: Nov. 1, 2010 To: Oct. 29, 2012	12/9/10	12/9/10

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 5020, portions of 5019, 5021, and 5030 Circle One: ***EC*** or *CCR*

Topic of the waiver: WAIVER OF ELECTIONS REQUIREMENT(S) FOR CHANGE TO TRUSTEE AREA ELECTIONS

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No x Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 1/7/11

Name of bargaining unit and representative(s) consulted: Lemoore Federation of Teacher Local 3219, Larry Guevara, President and Lemoore Federation of classified Employees Local 4870, Catherine Zaharris, President

The position(s) of the bargaining unit(s): __ Neutral _x_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper __x_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Lemoore Union High School Site Council
Date the committee/council reviewed the waiver request: March 14, 2011

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

   See Attachment A Hereto

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

   This waiver is requested to expedite efforts of the Lemoore Union High School District to come into compliance with the California Voters Rights Act of 2001.

8. Demographic Information:
   The Lemoore Union High School District has a student population of 2,100 and is located in a small city in Kings County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 1/20/11
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment A

6. Education Code or California Code of Regulations section to be waived

Request to waive the following sections and portions of the Education Code lined out below:

§ 5019. Trustee areas and size of school district governing boards; powers of county committee; proposal and hearing

(a) Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district, the county committee on school district organization may establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members specified in Section 5030.

(b) The county committee on school district organization may establish or abolish a common governing board for a high school district and an elementary school district within the boundaries of the high school district. The resolution of the county committee on school district organization approving the establishment or abolition of a common governing board shall be presented to the electors of the school districts as specified in Section 5020.

(c) (1) A proposal to make the changes described in subdivision (a) or (b) may be initiated by the county committee on school district organization or made to the county committee on school district organization either by a petition signed by 5 percent or 50, whichever is less, of the qualified registered voters residing in a district in which there are 2,500 or fewer qualified registered voters, by 3 percent or 100, whichever is less, of the qualified registered voters residing in a district in which there are 2,501 to 10,000 qualified registered voters, by 1 percent or 250, whichever is less, of the qualified registered voters residing in a district in which there are 10,001 to 50,000 qualified registered voters, by 500 or more of the qualified registered voters residing in a district in which there are 50,001 to 100,000 qualified registered voters, by 750 or more of the qualified registered voters residing in a district in which there are 100,001 to 250,000 qualified registered voters, or by 1,000 or more of the qualified registered voters residing in a district in which there are 250,001 or more qualified registered voters or by resolution of the governing board of the district. For this purpose, the necessary signatures for a petition shall be obtained within a period of 180 days before the submission of the petition to the county committee on school district organization and the number of qualified registered voters in the district shall be determined pursuant to the most recent report submitted by the county elections official to the Secretary of State under Section 2187 of the Elections Code.

(2) When a proposal is made pursuant to paragraph (1), the county committee on school district organization shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee on school district organization shall approve or disapprove the proposal.

(d) If the county committee on school district organization approves pursuant to subdivision (a) ~~the rearrangement of the~~ boundaries of trustee areas for a particular district, then the ~~rearrangement of the~~ trustee areas shall be effectuated for the next district election occurring at least 120 days after ~~its~~ approval~~, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. The petition for an election shall be submitted to the county elections official within 60 days of the proposal's adoption by the county committee on school district organization. If the qualified registered voters approve pursuant to subdivision (b) or (c) the rearrangement of the boundaries to the trustee areas for a particular district, the rearrangement of the trustee areas shall be effective for the next district election occurring at least 120 days after its approval by the voters~~.

~~§ 5020. Presentation of proposal to electors~~

~~(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~

~~(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.~~

~~(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled~~

~~election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:~~

~~"For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District --Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District--No."~~

~~"For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--No."~~

~~"For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--No."~~

~~"For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--No."~~

~~"For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."~~

~~"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--No."~~

~~"For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--No."~~

~~If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.~~

§ 5021. Incumbents to serve out terms despite approval of change

(a) If a proposal for the establishment of trustee areas formulated under Section~~s~~ 5019 ~~and 5020~~ is approved ~~by a majority of the voters voting at the election~~, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established ~~at such election~~ which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by ~~a majority of the voters voting on the measure, or by~~ the county committee on school district organization ~~when no election is required~~, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved ~~by a majority of the voters voting at the election~~, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

§ 5030. Alternate method of election

Except as provided in Sections 5027 and 5028, in any school district or community college district having trustee areas, the county committee on school district organization ~~and the registered voters of a district~~, pursuant to Section~~s~~ 5019 ~~and 5020, respectively~~, may at any time recommend one of the following alternate methods of electing governing board members:

(a) That each member of the governing board be elected by the registered voters of the entire district.

(b) That one or more members residing in each trustee area be elected by the registered voters of that particular trustee area.

(c) That each governing board member be elected by the registered voters of the entire school district or community college district, but reside in the trustee area which he or she represents.

The recommendation shall provide that any affected incumbent member shall serve out his or her term of office and that succeeding board members shall be nominated and elected in accordance with the method recommended by the county committee.

Whenever trustee areas are established in a district, provision shall be made for one of the alternative methods of electing governing board members.

~~In counties with a population of less than 25,000,~~ the county committee on school district organization or the county board of education, if it has succeeded to the duties of the county committee, may at any time, by resolution, with respect to trustee areas established for any school district, other than a community college district, amend the provision required by this section without additional approval by the electors, to require one of the alternate methods for electing board members to be utilized.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-6

ITEM #W-6

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Santa Barbara County Office of Education** to waive portions of California *Education Code* sections 35576, 35782, and 35784 to allow removal of required timelines for the lapsation of a district and to provide a more equitable allocation of existing bonded indebtedness after lapsation. Waiver Number: 14-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval on the condition that the Santa Barbara County Committee on School District Organization adopts, pursuant to California *Education Code* (*EC*) sections 35738 and 35784, a method for allocating bonded indebtedness upon lapsation and annexation of the Los Alamos School District (SD) into the Orcutt Union SD ensuring no changes to existing bonded indebtedness circumstances.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) approved a waiver request of the Los Alamos SD at the March 2011 SBE meeting to require the lapsation of that district. The SBE, at its May 2011 meeting, approved a request from the West Fresno Elementary SD to waive required timelines for lapsation and approved a request from the Washington Unified SD to waive portions of *EC* sections 35738 and 35784 to allow a more equitable allocation of existing bonded indebtedness after lapsation of the West Fresno Elementary SD.

SUMMARY OF KEY ISSUES

Education Code Section 35780 requires each county committee on school district organization (county committee) to “lapse” an elementary school district if that district’s average daily attendance falls below six. Lapsing a district involves dissolving the district and annexing its territory to one or more adjacent districts. The governing board of the Los Alamos SD previously requested that the SBE waive portions of *EC* sections 35780 and 35782 to facilitate the lapsation of that district, which had an enrollment of 205. The SBE approved that request at its March 2011 meeting.

SUMMARY OF KEY ISSUES (Cont.)

This waiver request by the Santa Barbara County Office of Education (COE) will clarify the Santa Barbara County Committee's options during the lapsation process and allow the process to proceed in a timeframe that provides affected districts the ability to plan appropriately for the annexation of the Los Alamos SD to the Orcutt Union SD.

Specifically, approval of the waiver request will make it clear that the Santa Barbara County Committee has the authority to add a provision to the lapsation plan to ensure that:

- The proceeds of the bonds approved by the voters of the Los Alamos SD are used for school facilities serving students from the area of the current Los Alamos SD.

- The proceeds of the bonds approved by the voters of the Orcutt Union SD are used for school facilities serving students from the area of the current Orcutt Union SD.

- The financial obligation for the bonded indebtedness approved by the voters of the Los Alamos SD remains with the property owners of the area of the current Los Alamos SD.

- The financial obligation for the bonded indebtedness approved by the voters of the Orcutt Union SD remains with the property owners of the area of the current Orcutt Union SD.

Thus, the waiver request, if approved, would allow the Santa Barbara County Committee to ensure that there would be no changes in any circumstances related to the bonded indebtedness once the Los Alamos SD becomes part of the Orcutt Union SD. Note that it is the opinion of the CDE that the Santa Barbara County Committee already has such authority under existing *EC* (35780), but the CDE recognizes the lack of clarity in the *EC* regarding this issue and understands the desire of the Santa Barbara COE (and other affected parties) for that clarity.

Existing *EC* (35782) requires the lapsation process to occur within 30 days after the end of the school year. Approval of the waiver request removes this requirement and gives the affected school districts the flexibility to complete the process by July 1, 2011; thus, allowing the transfer of revenue, property, obligations, employees, and students to coincide with the beginning of the new fiscal year.

The waiver request has been reviewed by CDE staff and a determination has been made that: (1) the waiver was initiated by resolution of the Santa Barbara County Board of Education; and, (2) there was no significant public opposition to the waiver at the public hearings held by this board.

SUMMARY OF KEY ISSUES (Cont.)

It is the opinion of CDE staff that none of the grounds specified in *EC* Section 33051 that authorize denial of a waiver exists. The Department recommends that the SBE approve the waiver request under the condition that the Santa Barbara County Committee adopts, pursuant to *EC* sections 35738 and 35784, a method for allocating the bonded indebtedness of the Los Alamos SD upon lapsation and annexation into the Orcutt Union SD ensuring no changes to existing bonded indebtedness circumstances.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). "The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following; (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees;
(4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; and (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver."

Demographic Information: The Los Alamos SD has a student population of approximately 210 and is located in a rural area in Santa Barbara County. Orcutt Union SD has a student population of approximately 4,129 and is located in a small city in Santa Barbara County.

Authority for Waiver: *EC* Section 33050

Period of request: March 24, 2011, to December 31, 2012

Local board approval date(s): April 7, 2011

Public hearing held on date(s): April 7, 2011

Bargaining unit(s) consulted on date(s): March 25, 2011

Name of bargaining unit/representative(s) consulted: Santa Barbara County Education Association: Penny Luce (President); California State Employees Association: Michael Ostini (President); Orcutt Education Association, Monique Segura, President; Classified School Employees Association, Brad Gitchell, President; Los Alamos Teachers Association, Lisa Wilkanoski, Representative; Classified School Employees Association, Yvonne Emery, Representative.

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose

SUMMARY OF KEY ISSUES (Cont.)

Staff from the Los Alamos SD and the Orcutt Union SD also consulted with their respective bargaining units (see the Addendum to this General Waiver Request). All affected school district bargaining units are "neutral" to this waiver request.

Public hearing advertised by (choose one or more):

☐ posting in a newspaper ☒ posting at each school ☐ other (specify):

Advisory committee(s) consulted: Orcutt Union SD Advisory Committee; Los Alamos SD Advisory Committee.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 24, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver requests will not have negative fiscal effects on any local or state agency.

ATTACHMENT(S)

Attachment 1: General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X
Renewal Waiver: __
Revised 4/15/2011

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
4	2	1	0	4	2	1

Local educational agency: *Santa Barbara County Education Office, on behalf of the Santa Barbara County Committee on School District Organization. Waiver request approved by Santa Barbara County Board of Education.*	Contact name and Title: *Priscilla Diamond, Secretary to the Santa Barbara County Committee*	Contact person's e-mail address: *pdiamond@sbceo.org*
Address: (City) (State) (ZIP) *4400 Cathedral Oaks Road, Santa Barbara, CA 93160-6307*		Phone (and extension, if necessary): *(805) 964-4711, ext. 5237* Fax Number: *(805) 964-3041*
Period of request: (month/day/year) From: *March 24, 2011* To: *December 31, ~~2011~~* **2010 LS 5/4/11**	Local board approval date: (Required) *April 7, 2011*	Date of public hearing: (Required) *April 7, 2011*

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): EC *35782 / 35784 / 35787* Circle One: *EC* or *CCR*

   Topic of the waiver: *timing of public hearing / certain language in EC 35784 / lapsation subject to Chapter 3*

2. If this is a renewal of a previously approved waiver, please list Waiver Number: *N/A* and date of SBE Approval *N/A*
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No ***x*** Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): 3/25/2011

   Name of bargaining unit and representative(s) consulted: *Penny Luce, co-president, Santa Barbara County Education Association (SBCEA); Michael Ostini , president, California School Employees Association (CSEA) Chapter 817.*

   The position(s) of the bargaining unit(s): _***x***_ Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _***x***_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: *March 24, 2011 – Orcutt Union School District Advisory Committee; March 24, 2011 – Los Alamos School District Advisory Committee.*

   Were there any objection(s)? No ***x***_ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

See Attachment LS 5/4/11

EC 35782 *– ~~Within 30 days after the close of each school year~~, the county committee shall conduct a public hearing on the issues specified in Section 35780.*

EC 35784 *– If the county committee orders the territory of a lapsed district annexed to ~~more than~~ one adjoining district, it may provide for such a division of the funds, property, and obligations of the lapsed district as it deems most equitable in the circumstances. ~~If no division is provided for by the committee, the general provisions of Article 7 (commencing with Section 35560) of Chapter 3 shall apply to the division of funds, property, and obligations of the lapsed district.~~*

EC 35787 *– ~~Except as otherwise provided in this article, an action to lapse a school district is subject to the provisions of Chapter 3 (commending with Section 35500).~~*

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The Santa Barbara County Education Office (SBCEO) requests that the SBE waive the limitation in EC 35782 regarding the timing of the county committee's public hearing and meeting. The Orcutt Union School District has requested an accelerated timeline for the county committee's public hearing and meeting, to be effective July 1, 2011, in order that the district can begin its planning and related activities for the 2011-12 fiscal year in advance the stated timeline. Both districts agree to the accelerated process.

Also, there needs to be a means to fulfill the request of the two districts for the county committee to be able to divide the bond obligations in a way that maintains the current tax obligations for the residents in both districts. EC 35738 outlines a method allowing the county committee to divide the bonded indebtedness in a manner consistent with the desires of the districts. ~~To permit EC 35738 in Chapter 4 to be invoked, a waiver is sought that deletes the references in EC 35784 and 35787 to Chapter 3, which then allows EC 35738 in Chapter 4, to be applied for this lapsation.~~ **LS 5/4/11**

8. Demographic Information:

Los Alamos School District has a student population of *approx. 210* and is located in a *rural location* in *Santa Barbara County*. *Orcutt Union School District has a student population of approx. 4,129 and is located in a small city in Santa Barbara County.*

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ***x*** ☐ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ***x*** ☐ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: *Santa Barbara County Superintendent of Schools*	Date: April 7, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Addendum to General Waiver Request (Santa Barbara County Education Office):
Revised 4/15/2011

3. Marysia Ochej, Assistant Superintendent, Business Services of the Orcutt Union School District discussed the waiver with Monique Segura, president of the Orcutt Education Association (certificated bargaining unit) and Brad Gitchell, president of CSEA, on Thursday, March 24, 2011. Both unions are neutral with regard to the waiver.
   Ron Barba, Interim Superintendent of Los Alamos School District discussed the waiver with Lisa Wilkanoski , site president, CTA, and Yvonne Emery, classified representative, CTA, on Thursday, March 24, 2011. The certificated staff supports the waiver and the classified staff is neutral with regard to the waiver.

Attachment

6. Education Code or California Code of Regulations section to be waived

Request to waive the following sections and portions of the Education Code lined out below:

35576. (a) When territory is taken from one district and annexed to, or included in, another district or a new district by any procedure and the area transferred contains public school buildings or property, the district to which the territory is annexed shall take possession of the building and equipment on the day when the annexation becomes effective for all purposes. The territory transferred shall cease to be liable for the bonded indebtedness of the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of any district of which it becomes a part.

(b) The acquiring district shall pay the original district the greatest of the amounts determined under provisions of paragraphs (1) or (2) or the amount determined pursuant to a method prescribed under Section 35738.

(1) The proportionate share of the outstanding bonded indebtedness of the original district, which proportionate share shall be in the ratio which the total assessed valuation of the transferring territory bears to the total assessed valuation of the original district in the year immediately preceding the date on which the annexation is effective for all purposes. This ratio shall be used each year until the bonded indebtedness for which the acquiring district is liable has been repaid.

(2) That portion of the outstanding bonded indebtedness of the original district which was incurred for the acquisition or improvement of school lots or buildings, or fixtures located therein, and situated in the territory transferred.

(c) The county board of supervisors shall compute for the reorganized district an annual tax rate for bond interest and redemption which will include the bond interest and redemption on the outstanding bonded indebtedness ~~specified in paragraph (1) or (2) of subdivision (b) or the amount~~ determined pursuant to a method prescribed under Section 35738. The county board of supervisors shall also compute tax rates for the annual charge and use charge prescribed by former Sections 1822.2 and 1825 as they read on July 1, 1970 when such charges were established prior to November 23, 1970. All such tax rates shall be levied in excess of any other ad valorem property tax authorized or required by law and shall not be included in the computation of the limitation specified in subdivision (a) of Section 1 of Article XIII A of the California Constitution.

35782. ~~Within 30 days after the close of each school year,~~ the county committee shall conduct a public hearing on the issues specified in Section 35780. Notice of the public hearing shall be given at least 10 days in advance thereof to each member of the governing board of the lapsed district immediately prior to its lapsation, to each of the governing boards which adjoin the lapsed district, and to the high school district of which the lapsed elementary district is a component.

35784. If the county committee orders the territory of a lapsed district annexed to ~~more than~~ one adjoining district, it may provide for such a division of the funds, property, and obligations of the lapsed district as it deems most equitable in the circumstances. If no division is provided for by the committee, the general provisions ~~of Article 7 (commencing with Section 35560)~~ of Chapter 3 shall apply to the division of funds, property, and obligations of the lapsed district.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-7

ITEM #W-7

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Bass Lake Joint Union Elementary School District** to waive California *Education Code* Section 5020 that requires a district-wide election to reduce the number of governing board members from seven to five. Waiver Number: 29-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☒ **Approval** ☐ **Approval with conditions** ☐ **Denial**

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The California State Board of Education (SBE) has approved numerous similar waiver requests during the past few years—the most recent at the May, 12, 2011, SBE meeting for the Central Union Elementary School District in Kings County.

SUMMARY OF KEY ISSUES

Approval of this waiver request would eliminate the requirement that an election be held to approve the reduction from seven to five members of the governing board of the Bass Lake Joint Union Elementary School District (JUESD), in Madera County. The county committee on school district organization (county committee) has the authority to approve or disapprove the reduction in the number of members of a school district governing board. Pursuant to California *Education Code* (*EC*) Section 5020, county committee approval of the reduction constitutes an order of election; thus, voters in the district have final approval.

The Bass Lake JUESD currently has an enrollment of 814 students and a seven member governing board. Although each of the seven members are voted for by all voters in the school district, each member is required to reside in one of three trustee areas—Bass Lake, Oakhurst, or Wasuma. Currently, three members reside in the Oakhurst area and two reside in each of the other two areas.

Due to declining enrollment (the district has lost over 37 percent of its enrollment in seven years), and further fueled by budget constraints and recent vacancies on the board, the Bass Lake JUESD community requested that the governing board reduce its membership from seven to five. The Bass Lake JUESD governing board adopted a resolution to reduce the size of the board and submitted it to the Madera County Committee. The Madera County Committee held a public hearing on the proposal and

SUMMARY OF KEY ISSUES (Cont.)

approved the reduction on March 9, 2011. The governing board of the Bass Lake JUESD, in order to avoid the expense of an election on this reduction proposal, now is requesting that the SBE waive the election requirement.

As a further result of declining enrollment, the Bass Lake JUESD has closed two schools in the district—one in the Bass Lake trustee area and one in the Oakhurst trustee area. Reducing the governing board from seven to five members would be accomplished by eliminating a board seat from each of these two areas at the next election for governing board members.

It is further noted that the Bass Lake JUESD, along with all other school districts in Madera County have adopted resolutions to participate in a county-wide study to establish population balanced trustee areas using the 2010 Census data. This county-wide effort is in response to current and potential litigation based on the California Voting Rights Act (CVRA)—the Madera County Committee (also the County Board of Education) continues to be involved in a long-running CVRA lawsuit against the Madera Unified School District. Thus, the current proposal to reduce the size of the governing likely is the first step toward a complete redrawing of trustee area boundaries in Bass Lake JUESD.

The waiver request has been reviewed by California Department of Education (CDE) staff and a determination has been made that: (1) the waiver was initiated by governing board resolution; (2) there was no opposition to the waiver at the public hearings held by the governing board; and, (3) district employee bargaining units support the request.

It is the opinion of CDE staff that none of the grounds specified in *EC* Section 33051 that authorize denial of a waiver exists. Moreover, approval of the waiver will not eliminate existing legal rights of currently seated board members.

The Department recommends that the SBE approve, for the Bass Lake JUESD, the request to waive *EC* Section 5020 in its entirety.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). "The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees.
(4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver."

SUMMARY OF KEY ISSUES (Cont.)

Demographic Information: The Bass Lake JUESD has a student population of 814 and is located in a rural mountain area in Madera County.

Authority for Waiver: *EC* Section 33050

Period of request: March 1, 2011, to December 31, 2012

Local board approval date(s): April 13, 2011

Public hearing held on date(s): April 13, 2011

Bargaining unit(s) consulted on date(s): April 13, 2011 (California State Employees Association #757 [CSEA]); May 12, 2011 (Bass Lake Teachers Association [BLTA]).

Name of bargaining unit/representative(s) consulted: CSEA: Cliff Neufeld, President; BLTA: Cathy Tompkins, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Comments (if appropriate):
Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (specify):

Also posted at the district office and three public places in the district.

Advisory committee(s) consulted: Schoolsite Councils at Oakhurst Elementary School (ES), Oak Creek Intermediate School (IS), and Wasuma ES.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: Oakhurst ES, March 31, 2011; Oak Creek IS, April 7, 2011; and Wasuma ES, April 11, 2011.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the waiver requests will not have negative fiscal effects on any local or state agency. Approval will eliminate the costs of an election for the Bass Lake JUESD.

ATTACHMENT(S)

Attachment 1: General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Bass Lake Joint Union Elementary District	Glenn Reid, Superintendent	greid@blsd.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
40096 Indian Springs Road	Oakhurst	CA	93644	(559) 642-1555 Fax Number: (559) 642-1556

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 3/11/11 To: ~~Ongoing~~ Dec. 31, 2012	April 13, 2011 **LS 5/11/11** ~~February 16, 2011~~	April 13, 2011

LS 5/11/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 5020 ~~(a)~~ Circle One: *EC* or *CCR*

LS 5/11/11

Topic of the waiver: Order of election to reduce the number of trustees from seven to five

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): California State Employees Association #757 (CSEA) – 4/13/11,
Bass Lake Teachers Association (BLTA) – 5/12/11

Name of bargaining unit and representative(s) consulted: CSEA – Cliff Neufeld, President
BLTA – Cathy Tompkins, President

The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised? Notice was posted at District Office, at each school site in the district, and in three public places in the district.

Notice in a newspaper X Notice posted at each school Other: District Office, 3 Public places in the district.

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: Oakhurst Elementary School SSC – 3/ 31 /11, Oak Creek Intermediate SSC - 4/ 7/11, Wasuma Elementary SSC – 4/11 /11

Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

~~The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~ **See attachment LS 5/11/11**

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The California Education Code Sections 5019 and 5020 provide that a proposal to decrease the number of members of a governing board of a school district may be initiated by resolution of the governing board of the district. Such a proposal is then forwarded to the County Committee on School District Organization; a public hearing is then called and conducted by the county committee within the district territory. At the conclusion of that hearing, the county committee shall approve or deny the proposal. If approved, the proposal goes forward to an election. Due to a combination of factors, including declining enrollment, budget constraints, and recent vacancies on the district board, and at the request of its community, the Bass Lake Joint Union School District board resolved to reduce its membership from seven to five. A public hearing was conducted on March 9, 2011 and the reduction was approved by the County Committee on School District Organization. All input has been favorable in regard to the reduction and the district requests the waiver of election in order to save the cost of putting the reduction on a ballot.

8. Demographic Information:
The Bass Lake Joint Union School District has a student population of _814 and is located in a _rural mountain area in _Madera___ County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No X Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No X Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date: 4/13/11
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Attachment

6. Education Code or California Code of Regulations section to be waived

Request to waive the following sections and portions of the Education Code lined out below:

~~§ 5020. Presentation of proposal to electors~~

~~(a) The resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members specified in Section 5030, or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board.~~

~~(b) If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(c) If a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030 is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. Before the proposal is presented to the electors, the county committee on school district organization may call and conduct one or more public hearings on the proposal.~~

~~(d) The resolution of the county committee approving a proposal to establish or abolish a common governing board for a high school and an elementary school district within the boundaries of the high school district shall constitute an order of election. The proposal shall be presented to the electors of the district at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot.~~

~~(e) For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:~~

~~"For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District--Yes" and "For the establishment (or abolition or rearrangement) of trustee areas in ____ (insert name) School District--No."~~

~~"For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--Yes" and "For increasing the number of members of the governing board of ____ (insert name) School District from five to seven--No."~~

~~"For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--Yes" and "For decreasing the number of members of the governing board of ____ (insert name) School District from seven to five--No."~~

~~"For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of each member of the governing board of the ____ (insert name) School District by the registered voters of the entire ____ (insert name) School District--No."~~

~~"For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--Yes" and "For the election of one member of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters in that trustee area--No."~~

~~"For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--Yes" and "For the election of one member, or more than one member for one or more trustee areas, of the governing board of the ____ (insert name) School District residing in each trustee area elected by the registered voters of the entire ____ (insert name) School District--No."~~

~~"For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--Yes" and "For the establishment (or abolition) of a common governing board in the ____ (insert name) School District and the ____ (insert name) School District--No."~~

~~If more than one proposal appears on the ballot, all must carry in order for any to become effective, except that a proposal to adopt one of the methods of election of board members specified in Section 5030 which is approved by the voters shall become effective unless a proposal which is inconsistent with that proposal has been approved by a greater number of voters. An inconsistent proposal approved by a lesser number of voters than the number which have approved a proposal to adopt one of the methods of election of board members specified in Section 5030 shall not be effective.~~

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-8

ITEM #W-8

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Bend Elementary School District** under the authority of California *Education Code* Section 52863 for a renewal of waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, **Bend Elementary School.** Waiver Number: 6-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval of the waiver request with conditions. The Bend Elementary schoolsite council shall include: one principal; two teachers; three parents or community members selected by parents of participating students.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is a renewal of a previous waiver number 25-4-2009-W-42 approved by the State Board of Education on July 14, 2009.

SUMMARY OF KEY ISSUES

Bend Elementary School is experiencing declining enrollment. The school has one part- time superintendent/principal, two teachers and 33 students. The required composition of the council based on staffing cannot be met.

The Bend Elementary School SSC has approved this request. The Department recommends approval with the above stated conditions.

Authority for Waiver: *EC* Section 52863

Period of request: July 1, 2011, to June 30, 2013

Local board approval date(s): April 18, 2011

Bargaining unit(s) consulted on date(s): March 28, 2011

Name of bargaining unit/representative(s) consulted: Bend Teachers Association,

Janice Cerro, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose**:**

Comments (if appropriate):

Advisory committee(s) consulted: Bend Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 28, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

No state fiscal impact.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL- COMPOSITION OF MEMBERS

First Time Waiver: ___

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: _X_**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	2	7	1	4	8	0

Local educational agency: **Bend Elementary School District**	Contact name and recipient of approval/denial notice: **Shirley Odneal**	Contact person's e-mail address: **sodneal@besd.tehama.k12.ca.us**
Address: (City) (State) (ZIP) 22270 Bend Ferry Rd., Red Bluff, CA 96080		Phone (and extension, if necessary): **(530) 527-4648** Fax number: (530) 527-4670
Period of request: (month/day/year) From: **07/01/2011** To: **06/30/2013**	Local board approval date: (Required) **April 18, 2011**	

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) ***EC* 52852**

Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: **25-4-2009W-42** and date of SBE approval (date: **07/14/2009**). Renewals of waivers must be submitted two month before the active waiver expires.

4. Collective bargaining unit information.

Does the district have any employee bargaining units? ___ No _**X**__ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **03/28/2011**

Name of bargaining units and representative(s) consulted: **Bend Teachers Association, Janice Cerro, President**
per Shirley Odneal jb 5/12/11

The position(s) of the bargaining unit(s): ___ Neutral _**X**__ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: **Bend School Site Council**

Date advisory committee/council reviewed request: **04/28/2011**

_**X**_ Approve ___ Neutral ___ Oppose

Were there any objection? Yes ___ No __**X**_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION
SPECIFIC WAIVER REQUEST
SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Please attach a brief description of the situation in this school: The number of administrative staff, teachers and students at the schools. Indicate why a composition waiver is needed rather than this school sharing a SSC with another school per the SBE Waiver Policy for Shared SSC's available at: http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc

Bend School is experiencing declining enrollment. We have the equivalent of 2 FTEs teaching and 33 students. The composition for our school site council is greatly affected and we cannot meet the requirements of a 10 member SSC. Declining enrollment is anticipated to be in the 30's and possibly even lower for the 2011-2012 school year and beyond. Our certificated staffing for 2011-2012 will consist of one part time superintendent/principal (here on an administrative MOU-Memorandum of Understanding with the Tehama County Department of Education) and 2 FTEs. We are a one school district in a rural setting. Districts around us are much larger and do not face the same challenges our school does in educating students and making it possible for us to collaborate with another district on a SSC. We realize site councils are a requirement for schools to participate in school based programs and are making every effort to have a viable council with the staff that we will have.

Proposed Composition: principal/2 teachers/3 parents (remains with current composition)

8. Demographic Information:
Bend Elementary School has a student population of 33 and is located in a rural area in Tehama County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **_X_** No **__** Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? **_X_** No **__** Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee: **Roxy Williams**	Title: **Superintendent**	Date: **04/28/2011**
Signature of SELPA Director (only if a Special Education Waiver) **N/A**		Date: **N/A**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-9

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Taft Union High School District** under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small continuation high school**, Buena Vista Continuation High School**. Waiver Number: 64-2-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with conditions that the schoolsite council (SSC) which will serve during the period of this waiver will be composed of the following ten members: one principal; three classroom teachers selected by teachers; one other school employee selected by other school personnel; two parents selected by their peers; and, three students selected by their peers.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This is a renewal of an approved waiver granted in 2009. Specific authority is provided in California *Education Code* (*EC*) Section 52863 to allow the State Board of Education (SBE) to waive the SSC requirements of the School-Based Coordination Program (SBCP) Act that would hinder the success of school-based programs. These waivers must be renewed every two years.

SUMMARY OF KEY ISSUES

Buena Vista Continuation High School (CHS) is one of two schools in Taft Union High School District (UHSD). Student enrollment varies throughout the year and currently the school serves 85 students.

Demographic Information: Buena Vista CHS has an enrollment of 85 students and is one of two schools in the Taft UHSD located in a rural area of Kern County.

Authority for Waiver: *EC* Section 52863

Period of request: June 6, 20111` to June 5, 2013

Local board approval date(s): March 14, 2011

Bargaining unit(s) consulted on date(s): March 11, 2011

Name of bargaining unit/representative(s) consulted: Taft Union High School Teachers Association, David Dennis, President, indicated support on March 25, 2011

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Advisory committee(s) consulted: Buena Vista Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: January 19, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

No statewide fiscal impact.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL- COMPOSITION OF MEMBERS

First Time Waiver: ___

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: _X_**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	5	3	0	1	3	8

Local educational agency: Buena Vista Continuation High School/ Taft Union High School District	Contact name and recipient of approval/denial notice: Carolyn Wilson	Contact person's e-mail address: cwilson@taft.k12.ca.us

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
900 N. 10TH St.	TAFT	Ca	93268	661-763-2383 Fax number: 661-763-2393

Period of request: (month/day/year) From: ~~6/6/2011~~ 6/5/2011 To: ~~6/5/2015~~ 6/5/2013	Local board approval date: (Required) ~~February 16, 2010~~ 3/14/11

jb 3/30/11 **LEGAL CRITERIA**

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based Coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) ***EC* 52852**

Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: and date of SBE approval
Renewals of waivers must be submitted two month before the active waiver expires.

4. Collective bargaining unit information.

Does the district have any employee bargaining units? ___ No _x__ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): ~~2/23/10~~ 3/11/2011

Name of bargaining units and representative(s) consulted: Taft Union High School Teachers Association,
David Dennis, President kak 3/25/11

The position(s) of the bargaining unit(s): ___ Neutral _x__ Support ___ Oppose (*Please specify why*)

Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Buena Vista School Site Council- Monica Toro, Carolyn Wilson, Ben Johnson, John Ryan, Amber Castillo, Carol Hampton, and Christopher Sawyer schools.

Date advisory committee/council reviewed request: 1/1911

_6__ Approve __0_ Neutral _0__ Oppose

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

   EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents; and, in secondary schools, pupils selected by pupils attending the school.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)
   Reduction of school site council members of Buena Vista High School School Site Council.

Please attach a brief description of the situation in this school: The number of administrative staff, teachers and students at the schools. Indicate why a composition waiver is needed rather than this school sharing a SSC with another school per the SBE Waiver Policy for Shared SSC's available at:

8. Demographic Information:
   (*District/school/program) School* has a student population of 85 and is located in a Small City in Kern County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Principal	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-10

ITEM #W-10

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Gerber Union Elementary School District** under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council with a reduced number and composition to function for two small schools: **Gerber Union Elementary School** and **Gerber Community Day School.** Waiver Number: 46-3-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with conditions that the schoolsite council (SSC) which will serve during the period of this waiver will be composed of the following ten members: one principal; two classroom teachers selected by teachers at Gerber Union Elementary School (UES); one classroom teacher selected by teachers at Gerber Community Day School (CDS); one other school employee selected by other school personnel at either school; a total of five parents selected by their peers, representing Gerber UES and Gerber CDS with at least one parent from Gerber CDS.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Specific authority is provided in California *Education Code* (*EC*) Section 52863 to allow the State Board of Education (SBE) to waive the SSC requirements of the School-Based Coordination Program Act that would hinder the success of school-based programs. These waivers must be renewed every two years.

All waivers of this type have been approved by the SBE for schools too small to meet the SSC composition requirements of *EC* Section 52852. Pursuant to California SBE Policy 09-01 Waiver Guidelines: Schoolsite Councils for Small Schools Sharing Common Services or Attendance Areas Web document at http://www.cde.ca.gov/re/lr/wr/documents/schoolsitepolicyr.doc, schools must have small numbers of students and teachers and have a common site administration, curriculum, or other shared services; or have a geographic proximity or similar student populations.

SUMMARY OF PREVIOUS (Cont.)

Gerber UES is kindergarten through grade eight, serving approximately 412 students, and Gerber CDS is grades four through eight, serving approximately 5–10 students. The schools are located on the same campus. Gerber Union Elementary School District (UESD) is a rural unincorporated area in Tehama County.

SUMMARY OF KEY ISSUES

Gerber UES and Gerber CDS share the same campus facility. The two schools serve the same families. Combining the SSCs of the two schools will reduce operation costs and keep the educational support program services consistent for the local educational agency.

Demographic Information: Gerber UESD serves a student population of approximately 420 students. The district serves a rural unincorporated area located in Tehama County.

Authority for Waiver: *EC* Section 52863

Period of request: March 21, 2011 to March 21, 2013

Local board approval date(s): March 21, 2011

Bargaining unit(s) consulted on date(s): Gerber Teachers Association and Educational Support Personnel

Name of bargaining unit/representative(s) consulted: Gerber Teachers Association, Ruel Osburn, President, and Educational Support Personnel/California Teachers Association/National Education Association representative Judy Willhite, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose**:**

Comments (if appropriate):

Advisory committee(s) consulted: Gerber Union Schoolsite Council on April 5, 2011

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 5, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval or denial.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office of the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER: SCHOOL SITE COUNCIL- COMPOSITION OF MEMBERS

First Time Waiver: _X__

SW-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/ **Renewal Waiver: ___**

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
5	2	7	1	5	4	8

Local educational agency:	Contact name and recipient of approval/denial notice:	Contact person's e-mail address:
Gerber Union Elementary School District	Rod Stone	rstone@tehamaed.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
23014 Chard Ave.	Gerber	CA	96035	530-385-1041 Fax number: 530-385-1451

Period of request: (month/day/year)	Local board approval date: (Required)
From: March 21, 2011 To: March 21, 2013	March 21, 2011

LEGAL CRITERIA

1. Authority for the waiver: Write the Education Code (*EC)* Section citation, which authorizes the waiver of the specific *EC* Section you want to waive: X Specific code section: **52863**

EC **52863** Any governing board, on behalf of a school site council, may request the State Board of Education to grant a waiver of any provision of this article. The State Board of Education may grant a request when it finds that the failure to do so would hinder the implementation or maintenance of a successful school-based coordinated program. (Effective for 2 years only, may be renewed)

2. California *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) ***EC* 52852**

Requesting **reduced composition** in members for a small school. (Statute requires 12 members for a high schoolsite council and 10 members for elementary schoolsite council).

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: and date of SBE approval
Renewals of waivers must be submitted two months before the active waiver expires.

4. Collective bargaining unit information.

Does the district have any employee bargaining units? ___ No __X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): 3/17/ 2011

Name of bargaining units and representative(s) consulted: Educational Support Personnel(ESP)/California Teachers Association(CTA)/National Education Association (NEA) – Judy Whillhite (President)
Gerber Teachers Association (GTA) – Ruel Osburn (President) kak 4/5/11

The position(s) of the bargaining unit(s): ___ Neutral __X_ Support ___ Oppose (*Please specify why*)

5. Advisory committee or school site council that reviewed the waiver (All involved are REQUIRED). Name: Gerber Union School Site Council
Rod Stone (administration), Judy Whillhite (classified), Todd Bateman (teacher), Nancy Compton (teacher), Lori Leepin (teacher), Trysha Kehoe (parent), Anja Eklund (parent), Lisa Loewen (parent), Maria Lopez (parent), Silvia Caldera (parent)
Date advisory committee/council reviewed request: 3/17/2011 **Gerber Union School Site Council kak 4/5/11**

__X_ Approve ___ Neutral ___ Oppose

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-2009)

6. Education Code or California Code of Regulations section to be waived. Use a strike-out key if only portions of sections are to be waived).

EC 52852 *A schoolsite council shall be established at each school which participates in school-based program coordination. The council shall be composed of the principal and representatives of: teachers selected by teachers at the school; other school personnel selected by other school personnel at the school; parents of pupils attending the school selected by such parents.*

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

Gerber Union Elementary School District is a very small district with 17 teacher and approximately 400 students. In addition to the K-8 elementary school, we also have a CDS on our campus. Approximately 5 -10 students attend our CDS. Most of the time students, who attend our CDS, have brothers or sisters who attend the elementary school. To facilitate and streamline operations and to keep programs consistent for the LEA, it makes sense to have one School Site Council representing both the elementary school and the CDS.

8. Demographic Information:

Gerber Union Elementary School serves less than 400 students in grades K-8. A state funded pre-school is located on campus which feeds into the Gerber School population.

The Gerber Community Day School is also located on campus and serves students in grades 4-8 (approximately 5-10 students). The Gerber School District is characterized as a rural unincorporated area of approximately 70 square miles in the center of Tehama County. Of the 3000 residents within the district, the community of Gerber has a population of 900 and El Camino, which is more spread out, contains over 1300 people. It is one of 18 small school districts within the county and is a feeder school for Red Bluff High School District.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) _X_ No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Coordinated Compliance Review finding on this issue? _**X**_ No __ Yes
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: Superintendent/Principal	Date: 3/21/2011
Signature of SELPA Director (only if a Special Education Waiver) N/A		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-11

ITEM #W-11

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Hayward Unified School District** on behalf of Mount Eden High School to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010−11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for three special education students, based on *Education Code* Section 56101, the special education waiver authority. Waiver Number: 11-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends approval with conditions that the State Board of Education (SBE) approve the request to waive only the requirement that one student successfully completes a course in Algebra I (or its equivalent) for the 2010−11 graduating year. The students have met other course requirements stipulated by the governing board of the school district and California *Education Code (EC)* Section 51225.3 in order to receive a high school diploma. If the students do not graduate in 2010−11, this waiver does not relieve the students of the responsibility to continue to attempt to successfully complete a course in Algebra I (or its equivalent) in 2011−12 as required by *EC* Section 51224.5.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2000, *EC* Section 51224.5 was enacted to require students to complete a course in Algebra I, as a condition of receiving a high school diploma. The Algebra I requirement applied to students who were scheduled for graduation in 2003−04 and later. All waiver requests of this type have been granted by the SBE for students with special needs.

SUMMARY OF KEY ISSUES

For the review of this waiver request, the district provided the following documentation:

- A valid, current copy of each student's individualized education program (IEP), highlighting the areas of mathematic deficiencies and how each student's needs in mathematics were addressed.

SUMMARY OF KEY ISSUES (Cont.)

- Selected pages from each student's IEPs from the three previous years to show that the students were consistently on a diploma-track, and that the IEPs were written to support each student's participation in diploma-track math courses, particularly algebra.

- The specific assistance the district provided to each student including supplementary aids, services, accommodations, test modifications, and supports to attain the diploma-track goal, specifically, for the algebra requirement.

- A copy of the transcript for each student highlighting former attempts taking algebra and pre-algebra classes.

- The assessment summary indicating that each student participated in the Standardized Testing and Reporting program.

The above documentation was confidentially reviewed by a special education consultant. The district's documentation provided facts indicating that failure to approve the request would result in these students not meeting graduation requirements.

Demographic Information: Hayward Unified School District has a student population of 21,878 and is located in a large city in Alameda County.

Authority for Waiver: *EC* Section 56101

Period of request: August 23, 2010, to June 8, 2011

Local board approval date(s): April 10, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (1 page) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

AIGR-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

Waiver of Algebra I Graduation Requirements for Pupils with Disabilities

Send Original to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CDS CODE						
0	1	6	1	1	9	2

Local educational agency: Hayward Unified SD for Mount Eden High School	Contact name and recipient of approval/denial notice: Gina K. Litts Janis Duran, Superintendent	Contact person's e-mail address: glitts@HUSD.k12.ca.us
Address: (City) (State) (ZIP) 24411 Amador Street Hayward CA 94544-1301 2300 Panama Street Hayward CA 94545		Phone (and extension, if necessary): (510) 784-2640 superintendent 510-293-8539 Fax number:
Period of request: (month/day/year) From: 08/23/2010 To: 06/08/2011	Local board approval date **or** SELPA signature date (required) SELPA approved - Blaine Cowick 4/10/11	

LEGAL CRITERIA

1. Authority for the waiver: X Specific code section: ***EC* 56101**

56101(a) Any district, special education local plan area, county office, or public education agency, as defined in Section 56500, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under…(IDEA)… or to the compliance of a district, special education local plan area, or county office with...(IDEA)…and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for children or youth with disabilities.

***Education Code* or *California Code of Regulations* section to be waived.**

51224.5 (a) The adopted course of study for grades 7 to 12, inclusive, shall include algebra as part of the mathematics area of study pursuant to subdivision (f) of Section 51220.

(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.

Desired outcome/rationale. Student # 27669, student #44433, student #78564 jb 5/20/11

Request a waiver of the (above) Algebra I graduation requirement for____3_____ pupils with disabilities, who are seniors, and are otherwise eligible to graduate in the 2010-2011 school year under current statute.

District/County/SELPA Certification – *I hereby certify that the information provided on this application is correct & complete.*

Signature of Superintendent or Designee: Janis Duran	Title: Superintendent	Date:
Signature of SELPA Director (only if a Special Education Waiver) Blain S. Cowick		Date: 4/10/11

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-12

ITEM #W-12

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **Manteca Unified School District** to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010−11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority. Waiver Number: 10-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education (CDE) recommends that the State Board of Education (SBE) conditionally approve this waiver and remove only the requirement that one student successfully completes a course in Algebra I (or its equivalent) for the 2010−11 graduating year. The student has met other course requirements stipulated by the governing board of the school district and California *Education Code (EC)* Section 51225.3 in order to receive a high school diploma. If the student does not graduate in 2010−11, this waiver does not relieve the student of the responsibility to continue to attempt to successfully complete a course in Algebra I (or its equivalent) in 2011−12 as required by *EC* Section 51224.5.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2000, *EC* Section 51224.5 was enacted to require students to complete a course in Algebra I, as a condition of receiving a high school diploma. The Algebra I requirement applied to students who were scheduled for graduation in 2003−04 and later . All waiver requests of this type have been granted by the State Board of Education for special needs students.

SUMMARY OF KEY ISSUES

For the review of this waiver request, the district provided the following documentation:

- A valid, current copy of the student's individualized education program (IEP), highlighting the areas of mathematic deficiencies and how the student's needs in mathematics were addressed.

SUMMARY OF KEY ISSUES (Cont.)

- Selected pages from the student's IEPs from three previous years show that the student was consistently on a diploma track, and the IEPs were written to support the student's participation in diploma-track math courses, particularly algebra.

- The specific assistance the district provided to this student includes: supplementary aids, services, accommodations, test modifications, and supports to attain the diploma track goal, specifically, for the algebra requirement.

- A copy of the transcript for this student highlighting former attempts taking algebra and pre-algebra classes.

- The assessment summary which indicates that this student participated in the Standardized Testing and Reporting program.

The above documentation was confidentially reviewed by a special education consultant. The district's documentation provided facts indicating that failure to approve the request would result in this student not meeting graduation requirements.

Demographic Information: The Manteca Unified School District has a total student population of 24,000, and is located in one of four incorporated areas in San Joaquin County in a semi-rural setting.

Authority for Waiver: *EC* Section 56101

Period of request: August 1, 2010, to June 1, 2011

Local board approval date(s): April 4, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (1 page) (Original waiver request is signed and on file in the SBE Office of the Waiver Office.

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

AIGR-1 (Rev. 10-2-2009) http://www.cde.ca.gov/re/lr/wr/

Waiver of Algebra I Graduation Requirements for Pupils with Disabilities

Send Original to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CDS CODE						

Local educational agency: Manteca Unified School District	Contact name and recipient of approval/denial notice: Paul Ouellette , Program Specialist		Contact person's e-mail address:
Address: 2271 West Louise Ave.	(City) Manteca	(State) CA	(ZIP) 95337
Phone (and extension, if necessary): 209-858-0812 Fax number: 209-858-7530			
Period of request: (month/day/year) From: 8/1/10 To: 6/1/11	Local board approval date **or** SELPA signature date (required) Approved by SELPA 4/4/11		

ib 4/14/11 per Pau Ouelette **LEGAL CRITERIA** **jb 4/13/11**

1. Authority for the waiver: X Specific code section: ***EC* 56101**

56101(a) Any district, special education local plan area, county office, or public education agency, as defined in Section 56500, may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program and does not abrogate any right provided individuals with exceptional needs and their parents or guardians under…(IDEA)… or to the compliance of a district, special education local plan area, or county office with...(IDEA)…and federal regulations relating thereto.

(b) The board may grant, in whole or in part, any request pursuant to subdivision (a) when the facts indicate that failure to do so would hinder implementation of the pupil's individualized education program or compliance by a district, special education local plan area, or county office with federal mandates for a free, appropriate education for children or youth with disabilities.

***Education Code* or *California Code of Regulations* section to be waived.**

51224.5 (a) The adopted course of study for grades 7 to 12, inclusive, shall include algebra as part of the mathematics area of study pursuant to subdivision (f) of Section 51220.

(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.

Desired outcome/rationale.

Request a waiver of the (above) Algebra I graduation requirement for___1_____ pupils with disabilities, who are seniors, and are otherwise eligible to graduate in the _2011_____ school year under current statute.

District/County/SELPA Certification – *I hereby certify that the information provided on this application is correct & complete.*

Signature of Superintendent or Designee: Roger Goatcher	Title: Sr. Director of Student Services and Special Education	Date: 3/25/11
Signature of SELPA Director (only if a Special Education Waiver) Kathleen Skeels		Date: 4/4/11

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-13

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Imperial County Office of Education** to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Alejandra Larios Ramirez to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum requirements. Waiver Number: 56-3-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval of the waiver for Alejandra Larios Ramirez, with the following conditions:

1. In addition to the activities listed in the remediation plan submitted with the waiver request, the Imperial County Office of Education (COE) must do the following:

    a. By September 1, 2011, submit to CDE a professional development plan for Ms. Ramirez, with goals and objectives aimed at remediating skills designated as weaknesses by the Educational Interpreter Performance Assessment (EIPA) report, and

    b. Provide Ms. Ramirez with weekly one-on-one mentorship by a qualified interpreter during the 2010–11 school year

2. The Imperial COE must provide CDE with scores from the April 16, 2011 administration of the Educational Sign Skills Evaluation (ESSE) as soon as they are available.

3. If Ms. Ramirez does not pass the ESSE, she must retake the ESSE or the EIPA again by December 2012, and the Imperial COE must report those scores to CDE by June 30, 2012.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

4. If Ms. Ramirez does not achieve the regulatory qualification standard by June 2012, she must demonstrate evidence of participation in required professional growth opportunities to apply for a waiver for the consecutive school year.

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 or above on specified assessments.

Since 2007, 165 of these waivers have been approved by the SBE, and 21 have been denied.

SUMMARY OF KEY ISSUES

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

To meet this federal requirement, *California Code of Regulations,* Title 5 (5 *CCR*), Section 3051.16(b)(3) require the following:

> By **July 1, 2009**, and thereafter, an educational interpreter shall be certified by RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of **4.0** or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter/Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of **4.0** or above on the EIPA – Cued Speech.

An explanation of the scoring on each of the above named assessments is as follows:

- The EIPA is administered by Boys Town National Research Hospital in Omaha, Nebraska. An interpreter who takes the EIPA receives a single composite score from 1–5.

- The ESSE is administered by the Signing Exact English (SEE) Center in Los Alamitos, California. An interpreter who takes the ESSE receives a score from 1–5 in expressive interpreting skills and a separate score from 1–5 in receptive skills. Expressive interpreting refers to the ability to listen to a spoken English message and interpret it in signed language. Receptive skill refers to the ability to understand a signed message, and translate it to spoken or written English.

SUMMARY OF KEY ISSUES (Cont.)

An interpreter who takes the ESSE must receive a score of 4 or above on both portions of the evaluation.

- The NAD/ACCI assessment was administered by the California Coalition of Agencies Serving the Deaf and Hard of Hearing. An interpreter who took the NAD/ACCI assessment received a single composite score from 1–5. Administration of the NAD/ACCI assessment was discontinued in 2004.

Following are descriptions of the levels of educational interpreting provided by Boys Town National Research Hospital, which administers the EIPA:

Level 1: Beginner

Demonstrates very limited sign vocabulary with frequent errors in production. At times, production may be incomprehensible. Grammatical structure tends to be nonexistent. Individual is only able to communicate very simple ideas and demonstrates great difficulty comprehending signed communication. Sign production lacks prosody and use of space for the vast majority of the interpreted message.

An individual at this level is not recommended for classroom interpreting

Level 2: Advanced Beginner

Demonstrates only basic sign vocabulary and these limitations interfere with communication. Lack of fluency and sign production errors are typical and often interfere with communication. The interpreter often hesitates in signing, as if searching for vocabulary. Frequent errors in grammar are apparent, although basic signed sentences appear intact. More complex grammatical structures are typically difficult. Individual is able to read signs at the word level and simple sentence level but complete or complex sentences often require repetitions and repairs. Some use of prosody and space, but use is inconsistent and often incorrect.

An individual at this level is not recommended for classroom interpreting.

Level 3: Intermediate

Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics. Individual is able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.

An interpreter at this level needs continued supervision and should be required to participate in continuing education in interpreting.

SUMMARY OF KEY ISSUES (Cont.)

Level 4: Advanced Intermediate

Demonstrates broad use of vocabulary with sign production that is generally correct. Demonstrates good strategies for conveying information when a specific sign is not in her/his vocabulary. Grammatical constructions are generally clear and consistent, but complex information may still pose occasional problems. Prosody is good, with appropriate facial expression most of the time. May still have difficulty with the use of facial expression in complex sentences and adverbial non-manual markers. Fluency may deteriorate when rate or complexity of communication increases. Uses space consistently most of the time, but complex constructions or extended use of discourse cohesion may still pose problems. Comprehension of most signed messages at a normal rate is good but translation may lack some complexity of the original message.

An individual at this level would be able to convey much of the classroom content but may have difficulty with complex topics or rapid turn taking.

Level 5: Advanced

Demonstrates broad and fluent use of vocabulary, with a broad range of strategies for communicating new words and concepts. Sign production errors are minimal and never interfere with comprehension. Prosody is correct for grammatical, non-manual markers, and affective purposes. Complex grammatical constructions are typically not a problem. Comprehension of sign messages is very good, communicating all details of the original message.

An individual at this level is capable of clearly and accurately conveying the majority of interactions within the classroom.

Another way of clarifying the meaning of the scores is as follows:

Score	Rate of accuracy of interpretation
0	0%
1	20%
2	40%
3	60%
4	80%
5	100%

The Imperial COE provides special education and related services for 38 deaf and hard of hearing students.

SUMMARY OF KEY ISSUES (Cont.)

The Imperial COE's job description for educational interpreters is reflective of the regulatory requirements.

The Imperial COE is requesting a waiver of the regulatory qualification standard for Alejandra Larios Ramirez, an educational interpreter who has not yet met the regulatory qualification standard.

Ms. Ramirez has been employed as an educational interpreter by the Imperial COE since February 15, 2011. She took the EIPA on May 15, 2008, and scored 2.5. She took the EIPA Pre-Hire Screen August 20, 2010, and received a rating of "OK to Hire/Hire with Caution." She took, the ESSE on April 16, 2011, and the scores are pending October, 2011.

The following is a summary of Ms. Ramirez' assessment results:

Date	Assessment	Results
May 2008	EIPA	2.5 (50%)
August 2010	EIPA Pre-Hire Screen	"OK to Hire/Hire with Caution"
April 2011	ESSE	Scores Pending October 2011
*Percentages in parentheses indicate rate of accuracy of interpretation.		

Imperial County is very rural and very remote. Opportunities for interpreter training are lacking. Despite these limitations, the Imperial COE has worked hard to provide training opportunities for its educational interpreters.

The Department recommends approval of the waiver for Ms. Ramirez, with the strict conditions noted above.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). "The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver."

Demographic Information: The Imperial COE has a student population of 497 and is located in a rural area in Imperial County.

Authority for Waiver: California *Education Code* Section 33050

Period of request: July 1, 2011, to June 30, 2012

Local board approval date(s): March 14, 2011

Public hearing held on date(s): March 14, 2011

Bargaining unit(s) consulted on date(s): February 10, 2011

Name of bargaining unit/representative(s) consulted: California School Employees Association/Ruby Tagaban, Chapter President

Position of bargaining unit(s) (choose only one):

☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: Imperial COE Advisory Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 10, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 2: Educational Sign Language Interpreter Remediation Plan (2 pages) (Original is on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) **http://www.cde.ca.gov/re/lr/wr/**

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE					
1	3	1	0	3	2

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Imperial County Office of Education	**Sheri M. Huerta,** **Program Manager Special Education**	**shuerta@icoe.org**

Address: (ZIP)	(City)	(State)	Phone (and extension, if necessary):
1398 Sperber Road. 92243	**EL Centro**	**CA**	**760-312-6582** Fax Number: **760-312-6530**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **07/01/2011** To: **06/30/2012**	**03/14/2011**	**03/14/2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Alejandra Larios Ramirez**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **none previous** and date of SBE Approval **NA**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **02/10/2011**

Name of bargaining unit and representative(s) consulted: **Ruby Tagaban, Chapter President , California School Employees Association kak 3/30/11**
The position(s) of the bargaining unit(s): __ Neutral **X** Support __ Oppose (*Please specify why*)
Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

X Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Imperial County Office of Education Advisory Council kak 4/7/11 per e-copy
Date the committee/council reviewed the waiver request: **02/10/2011**

Were there any objection(s)? No **X** Yes ___ *(If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration

8. Demographic Information:
(*District/school/program*) ***Imperial County Office of Education*** has a student population of **497** and is located in a (*urban, rural, or small city etc.*) ***RURAL*** *area* in Imperial County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date: 0**2/7/2011**
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

IMPERIAL COUNTY OFFICE OF EDUCATION

ANNE J. MALLORY
SUPERINTENDENT

1398 SPERBER ROAD EL CENTRO, CALIFORNIA 92243 (760) 312-6464 FAX (760) 312-6565

Anne J. Mallory, Superintendent

February 10, 2011

TO: Alejandra Larios Ramirez, candidate for Educational Sign Language Interpreter position
FROM: Sheri M. Huerta, Program Manager, Special Education

RE: Educational Sign Language Interpreter Remediation Plan for February 2011 through June 30th, 2011.

Dear Mrs. Larios,

This letter is to inform you that the state requires a remediation plan to be included with the waiver request. A waiver, if granted, would allow you to work as an Educational Sign Language Interpreter for the 2011-2012 school year. You are eligible to be hired by ICOE due to your Pre-hire Screening results ("ok to hire/hire with caution"). A 4.0 score on an acceptable sign language assessment is the state requirement which is listed below in the Title 5 Education Code. All Educational Sign Language Interpreters employed in the K-12 public school system must meet this requirement.

Title 5. EDUCATION regulation section 3051.16 (b)(3) requires that "By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment…"

You have not provided ICOE with scores on any of the aforementioned assessments at this time. Therefore the Remediation Plan below will be followed by you to assist you in meeting qualification requirements of a Sign Language Interpreter.

Remediation Plan:

- As soon a possible, the Imperial County Office of Education (ICOE) must provide CDE with your assessment scores (ESSE or EIPA); therefore, you are required to take the ESSE or EIPA exam before the end of the 2010-2011 school year.
- You are required to take advantage of the opportunities and resources available from ICOE to maximize your assessment score. Opportunities are listed below.

The ICOE is offering opportunities to support you in the above remediation plan and to help you meet your goal of 4.0 test score on the ESSE or EIPA. ICOE is offering the following opportunities for professional growth:

- EIPA Workshops (April 2011)
- Reimbursement for unit cost of Cypress College coursework (provided through video conferencing)
- Access to DVD library
- Reimbursement for one EIPA or ESSE assessment during 2010-2011 school year
- Access to newly purchased sign language vocabulary books with previously non-accessible vocabulary
- Encourage interpreters to meet regularly with colleagues to work on developing their Sign language skills; ICOE to provide location

The ICOE expects your full cooperation in this remediation plan. A Waiver Request for the 2011-2012 school year will be submitted for the California State Board of Education's review during the July 13 and 14 CDE Board of Education meeting. Your continued employment for the 2011-2012 school year will be contingent upon CDE Board of Education approval. There is no guarantee that the CDE will grant a waiver when requested.

Should you have any questions and/or concerns please contact Sheri Huerta at (760) 312-6428. Thank you in advance for your attention and cooperation in this matter. We look forward to your successful obtainment of a passing score on the ESSE or EIPA in the near future.

CSEA Chapter President | ICOE Program Administrator | Employee

County Board of Education

Sharon Anderholt | Alicia Armenta | Herlinda Belcher | Susan E. Manger | James Strain

IMPERIAL COUNTY OFFICE OF EDUCATION

ANNE J. MALLORY
SUPERINTENDENT

1398 SPERBER ROAD EL CENTRO, CALIFORNIA 92243 (760) 312-6464 FAX (760) 312-6565

Anne J. Mallory, Superintendent

February 10, 2011

TO: Alejandra Larios Ramirez, candidate for Educational Sign Language Interpreter position
FROM: Sheri M. Huerta, Program Manager, Special Education

RE: Educational Sign Language Interpreter Remediation Plan for July 1, 2011 through June 30th, 2012.

Dear Mrs. Larios,

This letter is to inform you that the state requires a remediation plan to be included with the waiver request. A waiver, if granted, would allow you to work as an Educational Sign Language Interpreter for the 2011-2012 school year. You are eligible to be hired by ICOE due to your Pre-hire Screening results ("ok to hire/hire with caution"). A 4.0 score on an acceptable sign language assessment is the state requirement which is listed below in the Title 5 Education Code. All Educational Sign Language Interpreters employed in the K-12 public school system must meet this requirement.

Title 5. EDUCATION regulation section 3051.16 (b)(3) requires that "By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment…"

You have not provided ICOE with scores on any of the aforementioned assessments at this time. Therefore the Remediation Plan below will be followed by you to assist you in meeting qualification requirements of a Sign Language Interpreter.

Remediation Plan:

- By June 30, 2012, the Imperial County Office of Education (ICOE) must provide CDE with your assessment scores (ESSE or EIPA); therefore, you must take the ESSE or EIPA exam between July 1, 2011 and June 2012 to show you are making a diligent effort to improve your score toward achieving the minimum 4.0 requirement.
- Any interpreter who does not achieve the regulatory qualification standard must demonstrate growth on the assessment, and demonstrate evidence of participation in professional growth opportunities in order to apply for a waiver for the consecutive school year.

The ICOE is offering opportunities to support you in the above remediation plan and to help you meet your goal of 4.0 test score on the ESSE or EIPA. ICOE is offering the following opportunities for professional growth:

- EIPA Workshops (November 2011, January 2012, April 2012)
- Reimbursement for unit cost of Cypress College coursework (provided through video conferencing)
- Access to DVD library
- Reimbursement for one EIPA or ESSE assessment during 2011-2012 school year
- Access to newly purchased sign language vocabulary books with previously non-accessible vocabulary
- Encourage interpreters to meet regularly with colleagues to work on developing their Sign language skills; ICOE to provide location

The ICOE expects your full cooperation in this remediation plan. Failure to meet the minimum requirements set forth in the above remediation plan may jeopardize your eligibility for a waiver issued by the state, and without a waiver granted by California Department of Education for the 2011-2012 school year or a score of 4.0, your employment as an Educational Sign Language Interpreter with the Imperial County Office of Education will be terminated effective June 30, 2012. There is no guarantee that the CDE will grant a waiver.

Should you have any questions and/or concerns please contact Sheri Huerta at (760) 312-6428. Thank you in advance for your attention and cooperation in this matter. We look forward to your successful obtainment of a passing score on the ESSE or EIPA in the near future.

CSEA Chapter President | ICOE Program Administrator | Employee

County Board of Education

Sharon Anderholt Alicia Armenta Herlinda Belcher Susan E. Manger James Strain

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-14

ITEM #W-14

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Shasta County Office of Education** for a renewal to waive *California Code of Regulations,* Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Christina Coburn, Diana Davis, Aleah Nishizaki, Barbara Wolf, and Sarah Wood to continue to provide services to students until June 30, 2012, under a remediation plan to complete those minimum qualifications. Waiver Numbers: 45-4-2011, 46-4-2011, 47-4-2011, 49-4-2011, and 50-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with conditions of the renewal waivers for Christina Coburn, Diana Davis, Aleah Nishizaki, Barbara Wolf, and Sarah Wood, with the following conditions:

1. By October 30, 2011, the Shasta County Office of Education (COE) must develop and submit to CDE a professional development plan for each of the above named interpreters, including goals and objectives specifically aimed to help the interpreters improve in the skills noted as areas needing improvement on the Educational Interpreter Performance Assessment (EIPA).

2. Until these interpreters have met the qualification standard, the Shasta County COE must provide these interpreters with weekly one-on-one mentorship, based upon the individualized professional development plan, by a qualified interpreter. Documentation of participation in mentoring must be provided to CDE with any future waiver requests.

3. By June 2012, the Shasta COE must provide CDE with new assessment scores for these interpreters. The scores must be from one of the assessments named in the *California Code of Regulations,* Title 5, Section 3051.16(b)(3).

4. If the interpreters do not meet the qualification standard, they must demonstrate growth to qualify for waivers for the 2011–12 school year.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In 2002, the State Board of Education (SBE) approved regulations that required educational interpreters to be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent, by January 1, 2007. As of July 1, 2009, they have been required to be certified by the national RID, or equivalent, or to have achieved a score of 4.0 on specified assessments.

Since 2007, 165 of these waivers have been approved by the SBE, and 21 have been denied.

SUMMARY OF KEY ISSUES

The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA 2004) requires that interpreters for pupils who are deaf or hard of hearing meet state-approved or state-recognized certification, licensing, registration, or other comparable requirements, as defined in Title 34 of the *Code of Federal Regulations*, Section 300.156(b)(1).

To meet this federal requirement, *California Code of Regulations,* Title 5 (5 *CCR*), Section 3051.16(b)(3) require the following:

> By **July 1, 2009**, and thereafter, an educational interpreter shall be certified by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a score of **4.0** or above on the Educational Interpreter Performance Assessment (EIPA), the Educational Sign Skills Evaluation-Interpreter/Receptive (ESSE-I/R), or the National Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If providing Cued Language transliteration, a transliterator shall possess Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a score of **4.0** or above on the EIPA – Cued Speech.

An explanation of the scoring on each of the above named assessments is as follows:

- The EIPA is administered by Boys Town National Research Hospital in Omaha, Nebraska. An interpreter who takes the EIPA receives a single composite score from 1–5.

- The ESSE is administered by the Signing Exact English (SEE) Center in Los Alamitos, California. An interpreter who takes the ESSE receives a score from 1– 5 in expressive interpreting skills and a separate score from 1–5 in receptive skills. Expressive interpreting refers to the ability to listen to a spoken English message and interpret it in signed language. Receptive skill refers to the ability to understand a signed message, and translate it to spoken or written English. An interpreter who takes the ESSE must receive a score of 4 or above on both portions of the evaluation.

SUMMARY OF KEY ISSUES (Cont.)

- The NAD/ACCI assessment was administered by the California Coalition of Agencies Serving the Deaf and Hard of Hearing. An interpreter who took the NAD/ACCI assessment received a single composite score from 1–5. Administration of the NAD/ACCI assessment was discontinued in 2004.

Following are descriptions of the levels of educational interpreting provided by Boys Town National Research Hospital, which administers the EIPA:

Level 1: Beginner

Demonstrates very limited sign vocabulary with frequent errors in production. At times, production may be incomprehensible. Grammatical structure tends to be nonexistent. Individual is only able to communicate very simple ideas and demonstrates great difficulty comprehending signed communication. Sign production lacks prosody and use of space for the vast majority of the interpreted message.

An individual at this level is not recommended for classroom interpreting

Level 2: Advanced Beginner

Demonstrates only basic sign vocabulary and these limitations interfere with communication. Lack of fluency and sign production errors are typical and often interfere with communication. The interpreter often hesitates in signing, as if searching for vocabulary. Frequent errors in grammar are apparent, although basic signed sentences appear intact. More complex grammatical structures are typically difficult. Individual is able to read signs at the word level and simple sentence level but complete or complex sentences often require repetitions and repairs. Some use of prosody and space, but use is inconsistent and often incorrect.

An individual at this level is not recommended for classroom interpreting.

Level 3: Intermediate

Demonstrates knowledge of basic vocabulary, but will lack vocabulary for more technical, complex, or academic topics. Individual is able to sign in a fairly fluent manner using some consistent prosody, but pacing is still slow with infrequent pauses for vocabulary or complex structures. Sign production may show some errors but generally will not interfere with communication. Grammatical production may still be incorrect, especially for complex structures, but is in general intact for routine and simple language. Comprehends signed messages but may need repetition and assistance. Voiced translation often lacks depth and subtleties of the original message. An individual at this level would be able to communicate very basic classroom content, but may incorrectly interpret complex information resulting in a message that is not always clear.

An interpreter at this level needs continued supervision and should be required to participate in continuing education in interpreting.

Level 4: Advanced Intermediate

Demonstrates broad use of vocabulary with sign production that is generally correct. Demonstrates good strategies for conveying information when a specific sign is not in her/his vocabulary. Grammatical constructions are generally clear and consistent, but complex information may still pose occasional problems. Prosody is good, with appropriate facial expression most of the time. May still have difficulty with the use of facial expression in complex sentences and adverbial non-manual markers. Fluency may deteriorate when rate or complexity of communication increases. Uses space consistently most of the time, but complex constructions or extended use of discourse cohesion may still pose problems. Comprehension of most signed messages at a normal rate is good but translation may lack some complexity of the original message.

An individual at this level would be able to convey much of the classroom content but may have difficulty with complex topics or rapid turn taking.

Level 5: Advanced

Demonstrates broad and fluent use of vocabulary, with a broad range of strategies for communicating new words and concepts. Sign production errors are minimal and never interfere with comprehension. Prosody is correct for grammatical, non-manual markers, and affective purposes. Complex grammatical constructions are typically not a problem. Comprehension of sign messages is very good, communicating all details of the original message.

An individual at this level is capable of clearly and accurately conveying the majority of interactions within the classroom.

Another way of clarifying the meaning of the scores is as follows:

Score	Rate of accuracy of interpretation
0	0%
1	20%
2	40%
3	60%
4	80%
5	100%

The Shasta COE provides special education and related services for nine deaf and seven hard of hearing students.

The Shasta COE's job description for educational interpreters is reflective of the regulatory requirements.

During the 2010–11 school year, the Shasta COE was granted waivers of the regulatory qualification standard for 13 educational interpreters. The Shasta COE was diligent in providing training and mentoring opportunities for its educational interpreters. Consequently, five of those interpreters have passed the EIPA, and are now qualified educational interpreters. Three of those interpreters are no longer employed by the Shasta COE.

At this time, the Shasta COE employs 12 educational interpreters, 7 of whom are fully qualified. The Shasta COE is requesting renewal waivers of the regulatory qualification standard for five remaining interpreters, Christina Coburn, Diana Davis, Aleah Nishizaki, Barbara Wolf, and Sarah Wood, who have not yet met the qualification standard.

The current status of each of these educational interpreters is as follows:

1. Christina Coburn

Ms. Coburn has been employed as an educational interpreter by the Shasta COE since November 2, 2009. She took the EIPA Pre-hire Screen in February 2010, and achieved a rating of "OK to Hire." She took the EIPA in March 2010, and scored 3.3. In January 2011, she was granted a waiver of the regulatory requirement, with the conditions that she participate in monthly one-on-one mentorship by a certified interpreter, retake the EIPA, and demonstrate growth on the assessment. During the 2010–11 school year, Ms. Coburn completed 72 hours of professional development. She retook the EIPA in December 2010, and scored 3.6.

The following is a summary of Ms. Coburn's assessment results:

Date	Assessment	Results
February 2010	EIPA Pre-hire Screen	"OK to Hire"
March 2010	EIPA	3.3 (66%)
December 2010	EIPA	3.6 (72%)
*Percentages in parentheses indicate rate of accuracy of interpretation.		

Ms. Coburn met the conditions of her previous waiver, by participating in monthly mentoring, retaking the EIPA, and demonstrating growth in skills.

2. Diana Davis

Ms. Davis has been employed as an educational interpreter by the Shasta COE since March 26, 2007. She took the EIPA in September 2007, and scored 2.8. She took the EIPA again in March 2009, and scored 3.5. She took the EIPA a third time in March 2010, and scored 3.4. In January 2011, she was granted a waiver of the regulatory requirement, with the conditions that she participate in monthly one-on-one mentorship by a certified interpreter, retake the EIPA, and demonstrate growth on the assessment. During the 2010–11 school year, Ms. Davis completed 85 hours of professional development. She retook the EIPA in August 2010, and scored 3.5.

Ms. Davis took the EIPA a fifth time in January 2011, improving her score to 3.7.

The following is a summary of Ms. Davis' assessment results:

Date	Assessment	Results
September 2007	EIPA	2.8 (56%)
March 2009	EIPA	3.5 (70%)
March 2010	EIPA	3.4 (68%)
August 2010	EIPA	3.5 (70%)
January 2011	EIPA	3.7 (74%)
*Percentages in parentheses indicate rate of accuracy of interpretation.		

Ms. Davis met the conditions of her previous waiver, by participating in monthly mentoring, retaking the EIPA, and demonstrating growth in skills.

3. Aleah Nishizaki (formerly Faires)

Ms. Nishizaki has been employed as an educational interpreter by the Shasta COE since November 2, 2009. She took the EIPA Pre-hire Screen in November 2009, and was rated "OK to Hire". She took the EIPA in February 2010, and scored 3.4. In January 2011, she was granted a waiver of the regulatory requirement, with the conditions that she participate in monthly one-on-one mentorship by a certified interpreter, retake the EIPA, and demonstrate growth on the assessment. During the 2010–11 school year, Ms. Nishizaki completed 87 hours of professional development. She retook the EIPA in July 2010, and scored 3.5. She took the assessment a fourth time in December 2011, and her score improved to 3.8.

The following is a summary of Ms. Davis' assessment results:

Date	Assessment	Results
November 2009	EIPA Pre-hire Screen	"OK to Hire"
February 2010	EIPA	3.4 (68%)
July 2010	EIPA	3.5 (70%)
December 2010	EIPA	3.8 (76%)
*Percentages in parentheses indicate rate of accuracy of interpretation.		

Ms. Nishizaki met the conditions of her previous waiver, by participating in monthly mentoring, retaking the EIPA, and demonstrating growth in skills.

4. Barbara Wolf

Ms. Wolf has been employed as a substitute educational interpreter by the Shasta COE since August 2005. She took the EIPA Pre-Hire Screen in February 2010, and was rated "OK to Hire/Hire with Caution." She took the EIPA in March 2010, and scored 3.5. In January 2011, she was granted a waiver of the regulatory requirement, with the conditions that she participate in monthly one-on-one mentorship by a certified interpreter, retake the EIPA, and demonstrate growth on the assessment. During the 2010–11 school year, Ms. Wolf completed 40 hours of professional development. She took the EIPA in January 2011, and scored 3.5.

The following is a summary of Ms. Wolf's assessment results:

Date	Assessment	Results
March 2010	EIPA Pre-Hire Screen	"OK to Hire/Hire with Caution"
January 2011	EIPA	3.5 (70%)
*Percentages in parentheses indicate rate of accuracy of interpretation.		

Ms. Wolf met the conditions of her previous waiver, by participating in monthly mentoring, retaking the EIPA, and demonstrating growth in skills.

5. Sarah Wood

Ms. Wood has been employed as an educational interpreter by the Shasta COE since September 14, 2009. She took the EIPA in March 2009 and scored 2.8. She took the EIPA Pre-Hire Screen in February 2010, and was rated "OK to Hire/Hire with Caution." She took the EIPA in March 2010, and scored 3.3. In January 2011, she was granted a waiver of the regulatory requirement, with the conditions that she participate in monthly one-on-one mentorship by a certified interpreter, retake the EIPA, and demonstrate growth on the assessment. During the 2010–11 school year, Ms. Wood completed 67 hours of professional development. She retook the test in September 2010, and scored 3.4.

The following is a summary of Ms. Wood's assessment results:

Date	Assessment	Results
March 2009	EIPA	2.8 (56%)
February 2010	EIPA Pre-Hire Screen	"OK to Hire/Hire with Caution"
March 2010	EIPA	3.3 (66%)
September 2010	EIPA	3.4 (68%)
*Percentages in parentheses indicate rate of accuracy of interpretation.		

Ms. Wood met the conditions of her previous waiver, by participating in monthly mentoring, retaking the EIPA, and demonstrating growth in skills.

poBecause this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in California *Education Code (EC)* 33051(a). "The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed. (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request. (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees. (4) Pupil or school personnel protections are jeopardized. (5) Guarantees of parental involvement are jeopardized. (6) The request would substantially increase state costs. (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver."

Demographic Information: The Shasta COE has a student population of 220 students with special needs and is located in rural Shasta County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to June 30, 2012

Local board approval date(s): April 13, 2011

Public hearing held on date(s): April 13, 2011

Bargaining unit(s) consulted on date(s): March 15, 2011, and March 23, 2011

Name of bargaining unit/representative(s) consulted: California School Employees Association (CSEA)/Chapter President Ronald Smith

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: Community Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 8, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no statewide fiscal impact of waiver approval.

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 2: General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 3: General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 4: General Waiver Request (3 pages) (Original waiver request is signed and

on file in the SBE Office or the Waiver Office.)

Attachment 5: General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	6	9	3	8	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Shasta County Office of Education	**Yvette Marley** **"Lead Educational Interpreter"**	ymarley@shastacoe.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
Attention Yvette Marley **1644 Magnolia Avenue**	**Redding**	**CA**	**96001**	**(530) 225-0303** Fax Number: **(530) 225-0308**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **June 30, 2012**	***4/13/11***	**April 13, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived: **5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Christina Coburn**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **8-11-2010-W-21** and date of SBE Approval **January 20, 2011**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s) : **March 15, 2011**; **March 23, 2011**

Name of bargaining unit and representative(s) consulted: **California School Employees Association (CSEA) Chapter President: Ronald Smith**

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)
Comments (if appropriate): **See attached "Remediation Plan" signed by California School Employees Association (CSEA) Chapter President: Ronald Smith**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Advisory Committee
Date the committee/council reviewed the waiver request:
March 8, 2011
Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)* **See attached "Community Advisory Committee, Agenda/ Minutes" and "Community Advisory Committee, Comment Sheet"**

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)***Shasta COE** has a student population of **220 students with special needs** and is located in a **rural** (*urban, rural, or small city etc.)* in **Shasta** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
Tom Armelino	***Superintendent***	***"4/13/11"***
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

To: Christina Coburn

From: Yvette Marley

RE: Remediation Plan to meet Educational Interpreter Regulations (See CDE website: http://www.cde.ca.gov/sp/se/lr/om061108.asp)

Date: March 5, 2011

The Title 5 EDUCATION regulation 5CCR 3051.16 (b) (3) requires all interpreters, by July 1, 2009, to have achieved RID Certification or equivalent or, in lieu of equivalency, a score of a 4.0 or above on the Educational Interpreter Performance Assessment (EIPA) or the Educational Sign Skills Evaluation (ESSE). Your assessment history includes an EIPA score of 3.3 earned on March 31, 2010. At this time your score is 3.7 on the EIPA administered on July 10, 2010. Additionally, your EIPA results from your December 3, 2010 assessment are still pending from Boy's Town. As a result, you are not in compliance with the state regulations required for Educational Interpreters effective July 1, 2009.

You have received ongoing notice of this requirement since 2007. In order to help you achieve certification, the Shasta County Office of Education (SCOE) has set up a variety of professional development training opportunities as noted in this remediation plan. These include (but are not limited to): access to a Lead Educational Interpreter (RID certified holding both NIC and Ed:K-12 Certifications) who is providing approximately 67 hours of professional development training. This training occurs in the form of Educational Interpreter Meetings that are conducted entirely in sign language; where resources, training opportunities and knowledge *specific* to the SCOE K-12 educational interpreting environment are presented. The Lead Educational Interpreter (LEI) also provides monthly one-on-one mentoring sessions to each SCOE educational interpreter working in the K-12 classroom setting. To further support your efforts, the LEI has coordinated and secured funds for your access to 6 months of online training through "Sign Language Specialists" *Online Focus* program.

The SCOE LEI has also coordinated with the State of California SELPA Commissions, NorCal Services for the Deaf and Hard of Hearing, and Boy's Town to offer a variety of professional development opportunities in the form of a local workshop and a series of video conferencing workshops to help meet the conditions of your 2011-12 school year waiver. These workshops are being offered during non-working hours at the SCOE and a local college campus during the 2010-11 school year. Further, the Shasta County SELPA (in conjunction with four other SELPAs) has provided the tuition necessary for you to enroll in these professional development opportunities. The SCOE has also approved an *additional* six months of online training through Sign Language Specialists *Online Focus* program, paid for by the SCOE. The offering of these local/distance education courses, online trainings and continued access to a Lead Educational Interpreter is being provided to assist you with attaining CDE's minimum qualification standard of an EIPA or ESSE score of 4.0 for educational interpreters.

The SCOE is in the process of applying for a renewal waiver on your behalf with the California Department of Education (CDE); however the response for the renewal waiver will not be received until July of 2011 or later. If a renewal waiver is granted by CDE, it will only remain valid until the end of the 2011-12 school year. Therefore, you must continue to meet the conditions of your remediation plan, and your CDE approved assessment score must demonstrate interpreter skill growth. Currently, CDE has granted you a renewal waiver for the 2010-11 school year provided you meet the conditions outlined in the State Board of Education's (SBE) disposition letter dated January 20, 2011 (see attached). Successfully meeting the conditions outlined in last year's SBE's disposition letter as well as your remediation plan is vital to your 2011-12 waiver being considered for approval by the CDE and SBE. Failure to meet the CDE's minimum qualification standard of an assessment score of 4.0 or higher by June 30, 2011 may result in your dismissal from employment and placement on a thirty-nine month reemployment list. You may be reemployed in a vacant "educational interpreter" position if you later meet, and provide proof of meeting, CDE's Educational Interpreter Regulation's requirements.

"Ronald Smith" ***"Christina Coburn"*** CSEA Chapter President Employee Union Representative	***"Yvette Marley"*** Yvette Marley SCOE Lead Educational Interpreter RID Certified NIC & Ed:K-12	***"Jodie VanOrnum"*** Jodie VanOrnum SCOE Special Education Director

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	6	9	3	8	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Shasta County Office of Education	**Yvette Marley** **"Lead Educational Interpreter"**	ymarley@shastacoe.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
Attention Yvette Marley **1644 Magnolia Avenue**	**Redding**	**CA**	**96001**	**(530) 225-0303** Fax Number: **(530) 225-0308**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **June 30, 2012**	***"4/13/11"***	**April 13, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived: **5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Diana Davis**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **13-11-2010-W-21** and date of SBE Approval **January 20, 2011**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s) : **March 15, 2011**; **March 23, 2011**

Name of bargaining unit and representative(s) consulted: **California School Employees Association (CSEA) Chapter President: Ronald Smith**

The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)
Comments (if appropriate): **See attached "Remediation Plan" signed by California School Employees Association (CSEA) Chapter President: Ronald Smith**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Advisory Committee
Date the committee/council reviewed the waiver request:
March 8, 2011
Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)* **See attached "Community Advisory Committee, Agenda/ Minutes" and "Community Advisory Committee, Comment Sheet"**

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)***Shasta COE** has a student population of **220 students with special needs** and is located in a **rural** (*urban, rural, or small city etc.)* in **Shasta** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
"Tom Armelino"	***"Superintendent"***	***"4/13/11"***

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

To: Diana Davis

From: Yvette Marley

RE: Remediation Plan to meet Educational Interpreter Regulations (See CDE website: http://www.cde.ca.gov/sp/se/lr/om061108.asp)

Date: March 5, 2011

The Title 5 EDUCATION regulation 5CCR 3051.16 (b) (3) requires all interpreters, by July 1, 2009, to have achieved RID Certification or equivalent or, in lieu of equivalency, a score of a 4.0 or above on the Educational Interpreter Performance Assessment (EIPA) or the Educational Sign Skills Evaluation (ESSE). Your assessment history includes an EIPA score of 2.8 earned on September 21, 2007, an EIPA score of 3.5 earned on March 27, 2009, and an EIPA score of 3.4 on March 12, 2010. At this time your score is 3.5 on the EIPA administered on August 21, 2010. Additionally, your EIPA results from your January 29, 2011 assessment are still pending from Boy's Town. As a result, you are not in compliance with the state regulations required for Educational Interpreters effective July 1, 2009.

You have received ongoing notice of this requirement since 2007. In order to help you achieve certification, the Shasta County Office of Education (SCOE) has set up a variety of professional development training opportunities as noted in this remediation plan. These include (but are not limited to): access to a Lead Educational Interpreter (RID certified holding both NIC and Ed:K-12 Certifications) who is providing approximately 67 hours of professional development training. This training occurs in the form of Educational Interpreter Meetings that are conducted entirely in sign language; where resources, training opportunities and knowledge *specific* to the SCOE K-12 educational interpreting environment are presented. The Lead Educational Interpreter (LEI) also provides monthly one-on-one mentoring sessions to each SCOE educational interpreter working in the K-12 classroom setting. To further support your efforts, the LEI has coordinated and secured funds for your access to 6 months of online training through "Sign Language Specialists" *Online Focus* program.

The SCOE LEI has also coordinated with the State of California SELPA Commissions, NorCal Services for the Deaf and Hard of Hearing, and Boy's Town to offer a variety of professional development opportunities in the form of a local workshop and a series of video conferencing workshops to help meet the conditions of your 2011-12 school year waiver. These workshops are being offered during non-working hours at the SCOE and a local college campus during the 2010-11 school year. Further, the Shasta County SELPA (in conjunction with four other SELPAs) has provided the tuition necessary for you to enroll in these professional development opportunities. The SCOE has also approved an *additional* six months of online training through Sign Language Specialists *Online Focus* program, paid for by the SCOE. The offering of these local/distance education courses, online trainings and continued access to a Lead Educational Interpreter is being provided to assist you with attaining CDE's minimum qualification standard of an EIPA or ESSE score of 4.0 for educational interpreters.

The SCOE is in the process of applying for a renewal waiver on your behalf with the California Department of Education (CDE); however the response for the renewal waiver will not be received until July of 2011 or later. If a renewal waiver is granted by CDE, it will only remain valid until the end of the 2011-12 school year. Therefore, you must continue to meet the conditions of your remediation plan, and your CDE approved assessment score must demonstrate interpreter skill growth. Currently, CDE has granted you a renewal waiver for the 2010-11 school year provided you meet the conditions outlined in the State Board of Education's (SBE) disposition letter dated January 20, 2011 (see attached). Successfully meeting the conditions outlined in last year's SBE's disposition letter as well as your remediation plan is vital to your 2011-12 waiver being considered for approval by the CDE and SBE. Failure to meet the CDE's minimum qualification standard of an assessment score of 4.0 or higher by June 30, 2011 may result in your dismissal from employment and placement on a thirty-nine month reemployment list. You may be reemployed in a vacant "educational interpreter" position if you later meet, and provide proof of meeting, CDE's Educational Interpreter Regulation's requirements.

"Ronald Smith"	***"Yvette Marley"***	***"Jodie VanOrnum"***
"Diana Davis"		
CSEA Chapter President	Yvette Marley	Jodie VanOrnum
Employee		
Union Representative	SCOE Lead Educational Interpreter	SCOE Special Education Director
	RID Certified	
	NIC & Ed:K-12	

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	6	9	3	8	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Shasta County Office of Education	**Yvette Marley** **"Lead Educational Interpreter"**	ymarley@shastacoe.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
"Attention Yvette Marley" **1644 Magnolia Avenue**	**Redding**	**CA**	**96001**	**(530) 225-0303** Fax Number: **(530) 225-0308**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **June 30, 2012**	***"4/13/11"***	**April 13, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived: **5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Aleah Nishizaki aka Faires**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **7-11-2010-W-21** and date of SBE Approval **January 20, 2011**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **March 15, 2011**; **March 23, 2011**

Name of bargaining unit and representative(s) consulted: **California School Employees Association (CSEA) Chapter President: Ronald Smith**

The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)
Comments (if appropriate): **See attached "Remediation Plan" signed by California School Employees Association (CSEA) Chapter President: Ronald Smith**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Advisory Committee
Date the committee/council reviewed the waiver request:
March 8, 2011
Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)* **See attached "Community Advisory Committee, Agenda/ Minutes" and "Community Advisory Committee, Comment Sheet"**

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)***Shasta COE** has a student population of **220 students with special needs** and is located in a **rural** (*urban, rural, or small city etc.)* in **Shasta** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
"Tom Armelino"	***"Superintendent"***	***"4/13/11"***

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

To: Aleah Nishizaki aka: Faires

From: Yvette Marley

RE: Remediation Plan to meet Educational Interpreter Regulations (See CDE website: http://www.cde.ca.gov/sp/se/lr/om061108.asp)

Date: March 5, 2011

The Title 5 EDUCATION regulation 5CCR 3051.16 (b) (3) requires all interpreters, by July 1, 2009, to have achieved RID Certification or equivalent or, in lieu of equivalency, a score of a 4.0 or above on the Educational Interpreter Performance Assessment (EIPA) or the Educational Sign Skills Evaluation (ESSE). Your assessment history includes an EIPA score of 3.4 earned on February 20, 2010. At this time your score is 3.5 on the EIPA administered on July 13, 2010. Additionally, your EIPA results from your December 13, 2010 assessment are still pending from Boy's Town. As a result, you are not in compliance with the state regulations required for Educational Interpreters effective July 1, 2009.

You have received ongoing notice of this requirement since 2009. In order to help you achieve certification, the Shasta County Office of Education (SCOE) has set up a variety of professional development training opportunities as noted in this remediation plan. These include (but are not limited to): access to a Lead Educational Interpreter (RID certified holding both NIC and Ed:K-12 Certifications) who is providing approximately 67 hours of professional development training. This training occurs in the form of Educational Interpreter Meetings that are conducted entirely in sign language; where resources, training opportunities and knowledge *specific* to the SCOE K-12 educational interpreting environment are presented. The Lead Educational Interpreter (LEI) also provides monthly one-on-one mentoring sessions to each SCOE educational interpreter working in the K-12 classroom setting. To further support your efforts, the LEI has coordinated and secured funds for your access to 6 months of online training through "Sign Language Specialists" *Online Focus* program.

The SCOE LEI has also coordinated with the State of California SELPA Commissions, NorCal Services for the Deaf and Hard of Hearing, and Boy's Town to offer a variety of professional development opportunities in the form of a local workshop and a series of video conferencing workshops to help meet the conditions of your 2011-12 school year waiver. These workshops are being offered during non-working hours at the SCOE and a local college campus during the 2010-11 school year. Further, the Shasta County SELPA (in conjunction with four other SELPAs) has provided the tuition necessary for you to enroll in these professional development opportunities. The SCOE has also approved an *additional* six months of online training through Sign Language Specialists *Online Focus* program, paid for by the SCOE. The offering of these local/distance education courses, online trainings and continued access to a Lead Educational Interpreter is being provided to assist you with attaining CDE's minimum qualification standard of an EIPA or ESSE score of 4.0 for educational interpreters.

The SCOE is in the process of applying for a renewal waiver on your behalf with the California Department of Education (CDE); however the response for the renewal waiver will not be received until July of 2011 or later. If a renewal waiver is granted by CDE, it will only remain valid until the end of the 2011-12 school year. Therefore, you must continue to meet the conditions of your remediation plan, and your CDE approved assessment score must demonstrate interpreter skill growth. Currently, CDE has granted you a renewal waiver for the 2010-11 school year provided you meet the conditions outlined in the State Board of Education's (SBE) disposition letter dated January 20, 2011 (see attached). Successfully meeting the conditions outlined in last year's SBE's disposition letter as well as your remediation plan is vital to your 2011-12 waiver being considered for approval by the CDE and SBE. Failure to meet the CDE's minimum qualification standard of an assessment score of 4.0 or higher by June 30, 2011 may result in your dismissal from employment and placement on a thirty-nine month reemployment list. You may be reemployed in a vacant "educational interpreter" position if you later meet, and provide proof of meeting, CDE's Educational Interpreter Regulation's requirements.

"Ronald Smith"	***"Yvette Marley"***	***"Jodie VanOrnum"***
"Aleah Nishizaki"		
CSEA Chapter President	Yvette Marley	Jodie VanOrnum
Employee		
Union Representative	SCOE Lead Educational Interpreter	SCOE Special Education Director
	RID Certified	
	NIC & Ed:K-12	

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	6	9	3	8	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Shasta County Office of Education	**Yvette Marley** **"Lead Educational Interpreter"**	ymarley@shastacoe.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
"Attention Yvette Marley" **1644 Magnolia Avenue**	**Redding**	**CA**	**96001**	**(530) 225-0303** Fax Number: **(530) 225-0308**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **June 30, 2012**	***"4/13/11"***	**April 13, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Barbara Wolf**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **16-11-2010-W-21** and date of SBE Approval **January 20, 2011**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s) : **March 15, 2011**;**March 23, 2011**

Name of bargaining unit and representative(s) consulted: **California School Employees Association (CSEA) Chapter President: Ronald Smith**

The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)
Comments (if appropriate): **See attached "Remediation Plan" signed by California School Employees Association (CSEA) Chapter President: Ronald Smith**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Advisory Committee
Date the committee/council reviewed the waiver request:
March 8, 2011
Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)* **See attached "Community Advisory Committee, Agenda/ Minutes" and "Community Advisory Committee, Comment Sheet"**

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (1-8-10)
Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)***Shasta COE** has a student population of **220 students with special needs** and is located in a **rural** (*urban, rural, or small city etc.)* in **Shasta** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
"Tom Armelino"	***"Superintendent"***	***"4/13/11"***

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

To: Barbara Wolf

From: Yvette Marley

RE: Remediation Plan to meet Educational Interpreter Regulations (See CDE website: http://www.cde.ca.gov/sp/se/lr/om061108.asp)

Date: March 18, 2011

The Title 5 EDUCATION regulation 5CCR 3051.16 (b) (3) requires all interpreters, by July 1, 2009, to have achieved RID Certification or equivalent or, in lieu of equivalency, a score of a 4.0 or above on the Educational Interpreter Performance Assessment (EIPA) or the Educational Sign Skills Evaluation (ESSE). At this time your score is 3.5 on the EIPA administered on March 20, 2010. Additionally, your EIPA results from your January 29, 2011 assessment are still pending from Boy's Town. As a result, you are not in compliance with the state regulations required for Educational Interpreters effective July 1, 2009.

You have received ongoing notice of this requirement since 2009. In order to help you achieve certification, the Shasta County Office of Education (SCOE) has set up a variety of professional development training opportunities as noted in this remediation plan. These include (but are not limited to): access to a Lead Educational Interpreter (RID certified holding both NIC and Ed:K-12 Certifications) who is providing approximately 40 hours of professional development training. This training occurs in the form of Educational Interpreter Meetings that are conducted entirely in sign language; where resources, training opportunities and knowledge *specific* to the SCOE K-12 educational interpreting environment are presented. The Lead Educational Interpreter (LEI) also provides monthly one-on-one mentoring sessions to each SCOE educational interpreter working in the K-12 classroom setting. To further support your efforts, the LEI has coordinated and secured funds for your access to 6 months of online training through "Sign Language Specialists" *Online Focus* program.

The SCOE LEI has also coordinated with the State of California SELPA Commissions, NorCal Services for the Deaf and Hard of Hearing, and Boy's Town to offer a variety of professional development opportunities in the form of a local workshop and a series of video conferencing workshops to help meet the conditions of your 2011-12 school year waiver. These workshops are being offered during non-working hours at the SCOE and a local college campus during the 2010-11 school year. Further, the Shasta County SELPA (in conjunction with four other SELPAs) has provided the tuition necessary for you to enroll in these professional development opportunities. The SCOE has also approved an *additional* six months of online training through Sign Language Specialists *Online Focus* program, paid for by the SCOE. The offering of these local/distance education courses, online trainings and continued access to a Lead Educational Interpreter is being provided to assist you with attaining CDE's minimum qualification standard of an EIPA or ESSE score of 4.0 for educational interpreters.

The SCOE is in the process of applying for a renewal waiver on your behalf with the California Department of Education (CDE); however the response for the renewal waiver will not be received until July of 2011 or later. If a renewal waiver is granted by CDE, it will only remain valid until the end of the 2011-12 school year. Therefore, you must continue to meet the conditions of your remediation plan, and your CDE approved assessment score must demonstrate interpreter skill growth. Currently, CDE has granted you a renewal waiver for the 2010-11 school year provided you meet the conditions outlined in the State Board of Education's (SBE) disposition letter dated January 20, 2011 (see attached). Successfully meeting the conditions outlined in last year's SBE's disposition letter as well as your remediation plan is vital to your 2011-12 waiver being considered for approval by the CDE and SBE. Failure to meet the CDE's minimum qualification standard of an assessment score of 4.0 or higher by June 30, 2011 may result in your dismissal from employment and placement on a thirty-nine month reemployment list. You may be reemployed in a vacant "educational interpreter" position if you later meet, and provide proof of meeting, CDE's Educational Interpreter Regulation's requirements.

"Ronald Smith" ***"Barbara Wolf"*** CSEA Chapter President Employee Union Representative	***"Yvette Marley"*** Yvette Marley SCOE Lead Educational Interpreter RID Certified NIC & Ed:K-12	***"Jodie VanOrnum"*** Jodie VanOrnum SCOE Special Education Director

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST - EDUCATIONAL INTERPRETER

GW-1 (Rev. 1-8-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: ___
Renewal Waiver: _X_

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	0	6	9	3	8	9

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Shasta County Office of Education	**Yvette Marley** **"Lead Educational Interpreter"**	ymarley@shastacoe.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
"Attention Yvette Marley" **1644 Magnolia Avenue**	**Redding**	**CA**	**96001**	**(530) 225-0303** Fax Number: (**530) 225-0308**

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: **July 1, 2011** To: **June 30, 2012**	***"4/13/11"***	**April 13, 2011**

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section to be waived**: 5 CCR 3051.16 (b)(3) Specialized Services for Low-Incidence Disabilities**

Topic of the waiver: **Educational Interpreter not Meeting State and Federal Qualifications**
Name of Interpreter: **Sarah Wood**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **17-11-2010-W-21** and date of SBE Approval **January 20, 2011**
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No **_X_** Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s) : **March 15, 2011; March 23, 2011**

Name of bargaining unit and representative(s) consulted: **California School Employees Association (CSEA) Chapter President: Ronald Smith**

The position(s) of the bargaining unit(s): __ Neutral **_X_** Support __ Oppose (*Please specify why*)
Comments (if appropriate): **See attached "Remediation Plan" signed by California School Employees Association (CSEA) Chapter President: Ronald Smith**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:
Community Advisory Committee
Date the committee/council reviewed the waiver request:
March 8, 2011
Were there any objection(s)? No _X_ Yes ___ (*If there were objections please specify)* **See attached "Community Advisory Committee, Agenda/ Minutes" and "Community Advisory Committee, Comment Sheet"**

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (1-8-10)

Educational Interpreter

6. *Education Code* or *California Code of Regulations* section to be waived: (**Strike-out** below indicates the exact language being waived.)

EC 3051.16. Specialized Services for Low-Incidence Disabilities.
(b) Certification requirements for educational interpreters for deaf and hard of hearing pupils.
~~(3) By July 1, 2009, and thereafter, an educational interpreter shall be certified by the national RID, or equivalent; in lieu of RID certification or equivalent, an educational interpreter must have achieved a **score of 4.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI assessment.** If providing Cued Language transliteration, a transliterator shall possess **TECUnit certification, or have achieved a score of 4.0 or above on the EIPA - Cued Speech.**~~

7. Required Attachments:

1. Name, date and score of most recent (within 12 months)* interpreter assessment (EIPA, ESSE, or NAD/ACCI)
2. Copy of the latest Test Certification page
3. Name, dates and scores of previous assessments
4. Date of hire
5. A Remediation Plan, specific to that interpreter, including the LEA's plans help the interpreter to achieve certification in the next year, including training/mentoring by a RID certified interpreter. The plan must include a statement that the interpreter understands (s)he might not be able to stay in their job is certification is not met, or a waiver granted. This document must be signed by the interpreter and the union representative as well as someone from administration.

8. Demographic Information:
(*District/school/program)***Shasta COE** has a student population of **220 students with special needs** and is located in a **rural** (*urban, rural, or small city etc.)* in **Shasta** County.

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
"Tom Armelino"	***"Superintendent"***	***"4/13/11"***

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

To: Sarah Wood

From: Yvette Marley

RE: Remediation Plan to meet Educational Interpreter Regulations (See CDE website: http://www.cde.ca.gov/sp/se/lr/om061108.asp)

Date: March 5, 2011

The Title 5 EDUCATION regulation 5CCR 3051.16 (b) (3) requires all interpreters, by July 1, 2009, to have achieved RID Certification or equivalent or, in lieu of equivalency, a score of a 4.0 or above on the Educational Interpreter Performance Assessment (EIPA) or the Educational Sign Skills Evaluation (ESSE). Your assessment history includes an EIPA score of 2.8 earned on March 20, 2009 and an EIPA score of 3.3 earned on March 12, 2010. At this time your score is 3.4 on the EIPA administered on September 10, 2010. As a result, you are not in compliance with the state regulations required for Educational Interpreters effective July 1, 2009.

You have received ongoing notice of this requirement since 2009. In order to help you achieve certification, the Shasta County Office of Education (SCOE) has set up a variety of professional development training opportunities as noted in this remediation plan. These include (but are not limited to): access to a Lead Educational Interpreter (RID certified holding both NIC and Ed:K-12 Certifications) who is providing approximately 67 hours of professional development training. This training occurs in the form of Educational Interpreter Meetings that are conducted entirely in sign language; where resources, training opportunities and knowledge *specific* to the SCOE K-12 educational interpreting environment are presented. The Lead Educational Interpreter (LEI) also provides monthly one-on-one mentoring sessions to each SCOE educational interpreter working in the K-12 classroom setting. To further support your efforts, the LEI has coordinated and secured funds for your access to 6 months of online training through "Sign Language Specialists" *Online Focus* program.

The SCOE LEI has also coordinated with the State of California SELPA Commissions, NorCal Services for the Deaf and Hard of Hearing, and Boy's Town to offer a variety of professional development opportunities in the form of a local workshop and a series of video conferencing workshops to help meet the conditions of your 2011-12 school year waiver. These workshops are being offered during non-working hours at the SCOE and a local college campus during the 2010-11 school year. Further, the Shasta County SELPA (in conjunction with four other SELPAs) has provided the tuition necessary for you to enroll in these professional development opportunities. The SCOE has also approved an *additional* six months of online training through Sign Language Specialists *Online Focus* program, paid for by the SCOE. The offering of these local/distance education courses, online trainings and continued access to a Lead Educational Interpreter is being provided to assist you with attaining CDE's minimum qualification standard of an EIPA or ESSE score of 4.0 for educational interpreters.

The SCOE is in the process of applying for a renewal waiver on your behalf with the California Department of Education (CDE); however the response for the renewal waiver will not be received until July of 2011 or later. If a renewal waiver is granted by CDE, it will only remain valid until the end of the 2011-12 school year. Therefore, you must continue to meet the conditions of your remediation plan, and your CDE approved assessment score must demonstrate interpreter skill growth. Currently, CDE has granted you a renewal waiver for the 2010-11 school year provided you meet the conditions outlined in the State Board of Education's (SBE) disposition letter dated January 20, 2011 (see attached). Successfully meeting the conditions outlined in last year's SBE's disposition letter as well as your remediation plan is vital to your 2011-12 waiver being considered for approval by the CDE and SBE. Failure to meet the CDE's minimum qualification standard of an assessment score of 4.0 or higher by June 30, 2011 may result in your dismissal from employment and placement on a thirty-nine month reemployment list. You may be reemployed in a vacant "educational interpreter" position if you later meet, and provide proof of meeting, CDE's Educational Interpreter Regulation's requirements.

"Ronald Smith" ***"Sarah Wood"*** CSEA Chapter President Employee Union Representative	***"Yvette Marley"*** Yvette Marley SCOE Lead Educational Interpreter RID Certified NIC & Ed:K-12	***"Jodie VanOrnum"*** Jodie VanOrnum SCOE Special Education Director

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-15

ITEM #W-15

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Mariposa County Office of Education** to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students. Waiver Number: 16-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: that special education and related services offered during the extended year period are comparable in standards, scope, and quality to the special education program offered during the regular academic year as required by *California Code of Regulations,* Title 5, (5 *CCR*), Section 3043(d). The district will claim only 16 days of special education average daily attendance (ADA) reimbursement for this service.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In the past, the SBE approved waivers to allow school districts to provide the required minimum amount of time in fewer days during the ESY for special education students.

Extended school year is the term for the education of special education students "between the close of one academic year and the beginning of the next," similar to a summer school. The difference is that if a student's individualized education program requires an ESY, the district is required to offer the schooling, unlike most summer schools.

SUMMARY OF KEY ISSUES

Mariposa County Office of Education (MCOE) proposes to provide ESY services utilizing a sixteen-day model and instructional time of five hours per day, rather than the traditional twenty-day ESY model. The longer ESY school day aligns with the district-wide summer school schedule providing the students served with additional time and focus on academic work and participation in the summer swimming program that makes up part of each school day.

SUMMARY OF KEY ISSUES

The Department recommends approval of this waiver because there will be no loss of instructional time for the MCOE's 16-day ESY program.

Demographic Information: Mariposa is a single district county with 14 schools and an approximate student population of 2,300 students. It consists of small, rural communities in the Sierra Nevada foothills.

Authority for Waiver: *EC* Section 33050

Period of request: June 27, 2011, to July 31, 2011

Local board approval date(s): April 7, 2011

Public hearing held on date(S): April 7, 2011

Bargaining unit(s) consulted on date(s): March 30, 2011

Name of bargaining unit/representative(s) consulted: Mariposa County Teacher's Association, Georgia Gallagher, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify)

Advisory committee(s) consulted: MCOE Special Education Council.

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 1, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

Negligible fiscal impact; district anticipates a savings of approximately $6,000 as a result of this schedule adjustment.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
6	1	0	5	3	0	8

Local educational agency: Mariposa County Office of Education	Contact name and Title: Linda Levesque Director of Business Services	Contact person's e-mail address:llevesque@mariposa.k12.ca.us
Address: (City) (State) (ZIP) 5082 Old Highway North, P.O. Box 8, Mariposa, CA 95338		Phone (and extension, if necessary): 209-742-0220 Fax Number: 209-742-0369
Period of request: (month/day/year) From: June 27, 2011 To: July 31, 2013	Local board approval date: (Required) April 7, 2011	Date of public hearing: (Required) April 7, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number):5 CCR 3043 (d) Circle One: *EC* or *CCR* *CCR*

   Topic of the waiver: Extended School Year (ESY)

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No X Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 30, 2011

   Name of bargaining unit and representative(s) consulted: Mariposa County Teachers Association, Georgia Gallager, President kak 4/21/11

   The position(s) of the bargaining unit(s): __ Neutral X Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: Mariposa County Office of Education, Special Education Council April 1, 2011 kak 4/21/11

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).
5 CCR 3043-Extended School Year. Extended school year services shall be provided for each individual with exceptional needs who has unique needs and requires special education and related services in excess of the regular academic year. Such individuals shall have handicaps which are likely to continue indefinitely or for a prolonged period, and interruption of the pupil's educational programming may cause regression, when coupled with limited recoupment capacity, rendering it impossible or unlikely that the pupil will attain the level of self-sufficiency and independence that would otherwise be expected in view of his or her handicapping condition. The lack of clear evidence of such factors may not be used to deny an individual an extended school year program if the individualized education program team determines the need for such a program and includes extended school year in the individualized education program pursuant to subsection (f). ~~(d)An extended year program shall be provided for a minimum of 20 instructional days, including holidays~~.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.
Due to the current fiscal crisis in California, the Mariposa County Office of Education proposes to provide Extended School Year (ESY) services to identified special education students utilizing a sixteen (16) day, (5) hour of instructional model rather than the traditional model of twenty (20) day with four (4) hours of instruction. Students will receive the same instructional minutes. The longer school day for ESY will better align with the regular school year providing more consistency for the students served. Fewer ESY days will result in savings in transportation, utilities, janitorial, food service, administration and clerical costs and match the summer operational calendar established at the district.

8. Demographic Information:
Mariposa County Office of Education has a special education student population of 45 and is located in various *rural mountainous* areas in Mariposa County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-16

ITEM #W-16

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **Specific Waiver**

SUBJECT	
Request by **East Valley, Fontana Unified, and San Bernardino City Unified Special Education Local Plan Areas** under authority of California *Education Code* Section 56101 for a renewal to waive *Education Code* Section 56836.22(d) to allow ten percent of state low incidence funds to be utilized for the purchase of assistive technology/materials for assessment and trial use prior to purchasing specific items for specific identified students. Waiver Number: 1-3-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☒ Approval with conditions ☐ Denial

The California Department of Education recommends approval with conditions that no more than ten percent of the state low incidence funds for these Special Education Local Plan Areas (SELPAs) are used for assistive technology and assessment (trial use).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The State Board of Education (SBE) first approved this waiver request for East Valley SELPA in 1997 and subsequently approved renewal requests in 1999, 2002, 2005, and 2008. The SBE previously approved other waivers of this type.

SUMMARY OF KEY ISSUES

California *Education Code (EC)* Section 56836.22(d) requires SELPAs use low incidence funds to maintain and repair equipment, and purchase books and materials for students with low incidence disabilities. As defined in *EC* Section 56026.5, low incidence disabilities includes students with, “a severe disabling condition with an expected incidence rate of less than one percent of the total statewide enrollment in kindergarten through grade 12.”

A waiver provides the SELPA consortium flexibility to use up to ten percent of allocated low incidence funds to purchase assistive technology materials and equipment for assessment of students who have low incidence disabilities. The law excludes these expenditures.

SUMMARY OF KEY ISSUES (Cont.)

An approved waiver benefits students with low incidence disabilities who reside within these SELPAs to receive a comprehensive assistive technology assessment as practiced since 1997. Based on these benefits to students, the California Department of Education recommends the SBE approve the waiver with conditions.

Demographic Information: East Valley SELPA, Fontana Unified SELPA, and San Bernardino City Unified SELPA have a combined student population of 182,034 and are located in an urban area in San Bernardino County.

Authority for Waiver: *EC* Section 56101

Period of request: July 1, 2011, to June 30, 2014

Local board approval date(s): February 25, 2011

Bargaining unit(s) consulted on date(s): San Bernardino City Unified School District Teachers Association on September 29, 2010, Fontana Unified School District Teachers Association on February 25, 2011, and San Bernardino County Office of Education Teachers Association on February 23, 2011

Name of bargaining unit/representative(s) consulted: Linda Whitaker, President, San Bernardino City Unified School District Teachers Association; Pat Mazzuli, President, Fontana Unified School District Teachers Association; Doreen Ramsey, President, San Bernardino County Office of Education Teachers Association

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose**:**

Comments (if appropriate):

Advisory committee(s) consulted: Assistive Technology Center Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: January 24, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There is no negative fiscal impact on either the district or the state related to this waiver renewal request.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (3 pages). (Original waiver request is signed and on filed in the SBE Office of the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __
Renewal Waiver: X

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	6	1	0	3	6	3

Local educational agency: East Valley SELPA (3610363), Fontana Unified SELPA (3667710), and San Bernardino City Unified SELPA (3667876)	Contact name and Title: Anita Ruesterholtz EVSELPA Administrator	Contact person's e-mail address: anita_ruesterholtz@sbcss.K2.ca.us
Address: (City) (State) (ZIP) 144 N. Mountain View Ave., San Bernardino, CA 92408		Phone (and extension, if necessary): (909) 252-4507 Fax number: (909) 252-4533
Period of request: (month/day/year) From: **7/1/2011** To: **6/30/2014**	Local board approval date: (Required) 2/25/11 SELPA approval per Anita Ruesterholtz jb 3/14/11	

LEGAL CRITERIA

1. Authority for the waiver: **_X_** Specific code section: **E.C. 56101**
Write the *EC* Section citation, which allows you to request, or authorizes the waiver of the specific *EC* Section you want to waive. **"Any district, special educational local plan area, county office, or public education agency, … may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individual education program and does not abrogate any right provided individuals with exceptional needs and their parents under the Individuals with Disabilities Education Act …"**

2. *Education Code* or *California Code of Regulations* or portion to be waived.
Section to be waived: (number) **E.C. 56836.22(d)** Circle One: *EC* or *CCR*

Brief Description of the topic of the waiver: The waiver allows the expenditure of low incidence funds to purchase technology/equipment/materials for assessment of low incidence eligible students and trial use of items prior to purchasing specific items for students with low incidence disabilities.

3. If this is a renewal of a previously approved waiver**,** please list Waiver No: CDSIS-8-3-2002-W-1 and date of SBE approval 4/25/2002 (Last renewed for 7/1/08-6/30/11 – Waiver #39-2-2008-W-32—CDE approval date 5/8/08)
Renewals of Waivers must be approved by the local board and submitted two months before the active waiver expires.

4. Collective bargaining unit information. (Not necessary for *EC* 56101 waivers)

Does the district have any employee bargaining units? __ No **X** Yes If yes, please complete required information below:
Name of bargaining units and representative(s) consulted: Doreen Ramsey, President, San Bernardino County Teachers Association 9/29/10; Linda Whitaker, President San Bernardino Teachers Association 2/23/11 ; Pat Mazzuli, President, Fontana USD Teachers Association 2/25/11

The position(s) of the bargaining unit(s): ___ Neutral **_X_** Support ___ Oppose (*Please specify why*)
Comments (if appropriate):

5. Advisory committee or school site council that reviewed the waiver. Name: ~~**N/A**~~
Assistive Technology Center Advisory Committee

Per *EC* 33051(a) if the waiver affects a program that requires a school site council that council must **approve** the request.
Date advisory committee/council reviewed request: January 24, 2011

_x__ Approve ___ Neutral ___ Oppose per Anita Ruesterholtz jb 3/14/11

Were there any objection? Yes ___ No __x_ (If there were objections please specify)

CALIFORNIA DEPARTMENT OF EDUCATION

SPECIFIC WAIVER REQUEST

SW-1 (Rev. 10-2-09)

6. Education Code or California Code of Regulations section to be waived. If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a **strike out key** if only portions of sections are to be waived). (Attach additional pages if necessary.)

   E.C. 56836.22(d) "As a condition of receiving these funds, the special education local plan area shall ensure that the appropriate books, materials, and equipment are purchased, that the use of the equipment is coordinated as necessary..."

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. (Attach additional pages if necessary.)

   Please see attached page.

8. Demographic Information:
   (District/school/program) **East Valley SELPA, San Bernardino City Unified SELPA and Fontana Unified SELPA** has a combined student population of 182,034 and is located in a **urban** (*urban, rural, or small city etc.)* in **San Bernardino** County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **X** No __ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? **X** No __ Yes
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete.*

Signature of Superintendent or Designee:	Title: San Bernardino County Superintendent of School	Date:
Signature of SELPA Director (only if a Special Education Waiver)		Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

7. Desired outcome/rationale.

The Assistive Technology Assessment Center Consortium was approved by the State Board of Education in 1997 and renewed for three additional years in 1999, 2002, 2005 and 2008. We have successfully implemented a program designed to facilitate the following:

- Operation of a regionalized program for low incidence services. As promoted by the California Department of Education's Special Education Division, for the three SELPAs in the East Valley of San Bernardino County. Our combined low incidence count as of December 2009 was 884.

- Support, through the assessment team, the acquisition of relevant assistive technology, thereby achieving improved student performance and maximizing the efficient utilization of limited low incidence funds.

- Involvement of parents and caregivers in the assessment and follow-up trainings to enhance learning opportunities in the home.

- Provision of in-depth inservice activities for teachers, instructional aides and support personnel relative to assistive technology.

- Inclusion of university students in training and assessment to augment their course work.

The purpose of our request for a waiver of Education Code Section 56771(d) is to continue to operate the Assistive Technology Assessment Center Consortium, utilizing annually 10% of State low incidence funds from each participating SELPA for the purchase of assistive technology, program coordination and transportation of students to the Assessment Center. Assistive technology will remain the property of the state. All State and Federal requirements will be followed. The needs of all low incidence students will continue to be met.

The facts that precipitated the original waiver request have not changed. The remedy for the problem has not changed. Members of the local governing board and district staff are not aware of the existence of any controversy over the implementation of this waiver or the request to extend it.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-17

ITEM #W-17

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Coachella Valley Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at **Cahuilla Desert Academy** and **Toro Canyon Middle School** (requesting 24.9 student ratio on average in core classes in grades seven and eight at Cahuilla Desert Academy and 24.6 at Toro Canyon Middle School). Waiver Number: 23-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: (1) This waiver applies only to classes in grades seven and eight at Cahuilla Desert Academy (DA) and Toro Canyon Middle School (MS); (2) Cahuilla DA must establish the average class size at the school level to 24.9 students per classroom in core classes and Toro Canyon MS must establish the average class size at the school level to 24.6 in core classes in grades seven and eight in the 2010–11 school year and in all subsequent years in which the schools receive Quality Education Investment Act (QEIA) funding; and (3) within 30 days of approval of this waiver, Coachella Valley Unified School District (USD) must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the class size reduction (CSR) requirement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.

SUMMARY OF PREVIOUS (Cont.)

- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including CSR, for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is ten students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

Coachella Valley USD is a rural school district in Riverside County. Cahuilla DA and Toro Canyon MS both serve students in grades seven and eight. Coachella Valley USD has a student population of 18,363 students. The district provided class size information from 2006–07, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes of English, mathematics, history-social science, and science in grades seven and eight range from 22.3 to 22.7 students.

The district states that lower class sizes have always been important. Core classes in the two middle schools had already been lowered through the use of various categorical funds in 2006–07. The reduction in class size left the district in the position of being "penalized" for having already implemented reductions in class sizes in the base year. Due to the low class size targets, both schools will not have sufficient funds to hire teachers required to meet the CSR targets throughout all QEIA funded years.

SUMMARY OF KEY ISSUES (Cont.)

Coachella Valley USD requests a waiver of the QEIA CSR targets and establishment of alternative CSR targets of 24.9 students per classroom on average in core classes at Cahuilla DA and 24.6 per classroom at Toro Canyon MS, respectively.

Department staff supports Coachella Valley USD's request to reduce its CSR target. This alternative target would be consistent with the intent of QEIA to ensure that students at funded schools benefit from lower class sizes.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Cahuilla Desert Academy has a student population of 868 and Toro Canyon Middle School has a student population of 1,002. Both schools are located in a rural area in Riverside County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 30, 2014

Local board approval date(s): May 26, 2011

Public hearing held on date(s): May 26, 2011

Bargaining unit(s) consulted on date(s): May 4, 2011

Name of bargaining unit/representative(s) consulted: Coachella Valley Teachers Association, Alexis Lanza, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other District Office, Post Office, and Mini-Mart

Advisory committee(s) consulted: Cahuilla Desert Academy, Schoolsite Council; Toro Canyon Middle School, Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:
Date(s) consulted: April 14, 2011 and May 5, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 2: Cahuilla Desert Academy/Toro Canyon Middle School Target CSR and Actual ADE 2008-2010 report and CST Summary Report Desert Academy and CST Summary Report Toro Middle School (3 pages) (Original is on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 11-30-10) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	3	7	3	6	7	6

Local educational agency: **Coachella Valley Unified School District**	Contact name and Title: **Dr. Paul Grafton**	Contact person's e-mail address: **paulg@cvusd.us**
Address: (City) (State) (ZIP) **P.O. Box 847** **87-225 Church Street Thermal CA 92274-0847**		Phone (and extension, if necessary): **730.399.5137 x339** Fax Number: **730.399.5418**
Period of request: (month/day/year) **From: July 1, 2010 To: June 30, ~~2015~~ 2014**	Local board approval date: (Required) May 26, 2011	Date of public hearing: (Required) May 26, 2011

Jb 6/24/11 **LEGAL CRITERIA**

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Circle One: *EC* or *CCR* **520550.740(a)**

   Topic of the waiver: **QEIA Class Size Reduction Targets**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): May 4, 2011 at 2:00pm

   Name of bargaining unit and representative(s) consulted: Coachella Valley Teachers Association, Alexis Lanza, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)*
   District Office, Post Office and Mini-Mart.

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: Cahuilla Desert Academy – April 14, 2011
   Toro Canyon Middle School – May 5, 2011

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Coachella Valley Unified School District requests that a portion of *Education Code* (*EC*) Section 52055.740 (a) be waived regarding the class size reduction requirements under the Quality Education Investment Act for Cahuilla Desert Academy Middle school grades 7 and 8 and Toro Canyon Middle School grades 7 and grade 8. The Coachella Valley Unified School District is requesting to waive Education Code section 52055.740 (C)(i), labeled below with the strike-out key.

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the school site. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is ~~the lesser of clause (i) or (ii),~~ as follows:

~~(i) At least five pupils fewer per classroom than was the average in 2006-07.~~

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of subject-specific classrooms in that grade at the school-site. If the subject-specific classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a class in English language arts, reading, mathematics, science, or history and social science in grades 4 to 12, inclusive, with more than 27 pupils regardless of its average classroom size.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Class Size Reduction (CSR)

Coachella Valley Unified School District requests that a portion of *Education Code* (*EC*) Section 52055.740 (a) regarding the class size reduction requirements under the Quality Education Investment Act (QEIA) be waived for Cahuilla Desert Academy grades 7 and 8 and Toro Canyon Middle School grades 7 and 8. The 2006-2007 school year was selected as our baseline year, and thus we were required to reduce class size by five students or to 25 students, whichever was lower. Lower class sizes have always been important to our District. Core classes in the two middle schools had already been lowered through the use of various categorical funds in 2006-07. The reduction in class size left the District in the position of being “penalized” for having already implemented reductions in class sizes in the base year. Due to the low class size targets, both schools will not have sufficient funds to hire teachers required to meet the CSR targets throughout all QEIA funded years.

The District is requesting that Cahuilla Desert Academy’s 7th and 8th grade students only be allowed a class size ratio of one teacher to every 24.9 students, instead of one teacher to 22.6 students as required by the QEIA target for the 2010-11 and subsequent school years. Cahuilla Desert Academy used one-time Title I funds in 2006-07 to increase staff by six teachers and reduce class size in grades 7 and 8. This is the base year for CSR calculations, which caused the target CSR to be lower than it would have been without the use of the Title I funds. The target CSR would have been 25 at 7th grade and 24.9 at 8th grade.

Toro Canyon Middle School also used special funds in 2006-07 to increase staff by two teachers and reduce class size in grades 7 and 8. This is the base year for CSR calculations, so with a base of 27.7 (7th grade) and 27.3 (8th grade), a further reduction of five students would require a 22.3 and 22.7 target class size ratio. The target CSR would have been 24.2 at 7th grade and 23.9 at 8th grade without the use of special funds.
Coachella Valley Unified School District is also requesting that a portion of the Education Code Section 52055.740 (a) be waived to allow Toro Canyon Middle School to have a CSR target of 24.6 students in grades 7 and 8 only.

Attached are the CSR targets for the first two years of the program for each school and the actual average daily enrollment on April 15 using Method A.

Student Demographics and Performance
Both Cahuilla Desert Academy and Toro Canyon Middle School are providing extensive support to all students by providing intervention in English and Math. Both schools have a high percentage of English Learners (51% at Toro Canyon and 28% at Cahuilla Desert Academy) and migrant students (24 % at Toro Canyon and 7% at Cahuilla Desert Academy). The migrant student population fluctuates at Toro Canyon Middle School, making enrollment and staffing difficult to plan for. From October CBEDS to April, enrollment grew by 34 students. The schools provide double Language Arts periods to all students and double Math periods to most of the students. This increases the number of Language Arts and Math staff needed at the school and thus significantly increases the number of teachers required to meet the needs of students.

The Academic Performance Index (API) increased from 602 in 2005-06 to 736 in the 2009-10 school year at Cahuilla Desert Academy. Toro Canyon Middle School increased from 552 in 2005-06 to 640 in the 2009-10 school year.

API Growth from 2006 to 2010

	2006	2007	2008	2009	2010
Cahuilla Desert Academy	602	612	631	732	736
Toro Canyon MS	552	580	596	653	640

Attached is the CST Summary report for Cahuilla Desert Academy and Toro Canyon Middle School. The report includes data for the past three years, 2007-08 to 2009-10. The four core subjects are included, as are the year(s) the subject was part of the QEIA program. Data indicates that the number of students scoring at the Proficient and Advanced levels has started to increase. The number of students at the Far Below Basic and Below Basic levels has also started to move into higher levels.

Fiscal Impact
Based on current projections, both schools will not have sufficient funds to hire the number of teachers required to meet the CSR targets throughout all QEIA funded years. Without adding additional sections, Toro Canyon Middle School is expected to have a revenue shortfall for the QEIA program of over $360,000 by the 2013-14 school year, placing significant pressures on an already strained unrestricted general fund budget.

Additionally, at Cahuilla Desert Academy, the District decided that it made no sense educationally to go backwards to the one-third implementation of the first year, and therefore chose to start with full implementation of all four core areas at that site. The two-pronged effect of these conditions left Cahuilla Desert Academy with very low targets (22.6) and projected revenue shortfalls of approximately $115,000 for the program by the 2012-2013 school year.

Approval of this waiver for Cahuilla Desert Academy and Toro Canyon Middle School will result in the school meeting the intent of the QEIA program while continuing to make strong academic gains. It will allow them to maintain reasonable target class sizes in grade 7th and 8th (a ratio of 24.9 at Cahuilla Desert Academy and 24.6 at Toro Canyon Middle School). During this time of economic uncertainty, this program would appear to be our only hope of maintaining low class size.

8. Demographic Information:
Coachella Valley Unified School District has a student population of 18363 and is located in a rural area of 1,200 square miles in Riverside County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.		
Signature of Superintendent or Designee: Signature on Original sent via U.S. Mail	Title: Interim Superintendent	Date: 05/06/2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Cahuilla Desert Academy Toro Canyon MS Target CSR and Actual ADE 2008-2010

Toro Canyon Middle School					
Grade Level			7	8	
CSR Targets required by 2010-2014 (full implementation)			**22.7**	**22.3**	
2008-09 CSR Targets			24.3	24.0	
2008-09 ADE Method A (Language Arts & Social Science)			21.1*	20.8*	
2009-10 CSR Targets			22.7	22.3	
2009-10 ADE Method A (Language Arts & Social Science)			22.5	22.2	
2009-10 CSR Targets			24.3	24.0	
2009-10 ADE Method A (Math)			24.0	23.3	
2010-11 CSR Targets			22.7	22.3	
2010-11 ADE Method A (LangArts, Math, Soc Sci, Science)					
Cahuilla Desert Academy					
Grade Level			7	8	
CSR Targets required by 2010-2014 (full implementation)			**22.6**	**22.6**	
2008-09 CSR Targets			25.9	25.9	
2008-09 ADE Method A (LangArts, Math, Soc Sci, Science)			21.1*	22.1*	
2009-10 CSR Targets			24.3	24.3	
2009-10 ADE Method A (LangArts, Math, Soc Sci, Science)			23.3	23.7	
2010-11 CSR Targets			22.6	22.6	
2010-11 ADE Method A (LangArts, Math, Soc Sci, Science)					

* The District had been experiencing high growth rate for serveral years. Growth was as high as 7.7 %. But in 08-09 growth abruptly stopped to a level of 0.3%. In 08-09 the District staffed for higher anticipated growth which did not materlize and resulted in over staffing and lower class size.

CST Summary Report Cahuilla Desert Academy

CST English-Language Arts													
	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Grade 07	2007-2008	21	4.9	88	20.6	153	35.7	106	24.8	60	14	428	
	2008-2009	36	9.7	102	27.3	132	35.4	78	20.9	25	6.7	373	
	2009-2010	43	10.9	116	29.3	151	38.1	52	13.1	34	8.6	396	
Grade 08	2007-2008	42	5.4	142	18.2	262	33.5	191	24.5	144	18.4	781	
	2008-2009	36	10.1	75	20.9	160	44.7	56	15.6	31	8.7	358	QEIA
	2009-2010	53	14.3	95	25.6	140	37.7	56	15.1	27	7.3	371	QEIA

CST Mathematics													
	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Algebra I	2007-2008	22	14.4	91	59.5	37	24.2	2	1.3	1	0.7	153	
	2008-2009	41	30.8	57	42.9	28	21.1	7	5.3	0	0	133	QEIA
	2009-2010	68	32.2	39	18.5	50	23.7	48	22.7	6	2.8	211	QEIA
General Math	2007-2008	9	1.4	96	15.4	199	31.9	199	31.9	120	19.3	623	
	2008-2009	1	0.4	63	24.9	89	35.2	71	28.1	29	11.5	253	QEIA
	2009-2010	4	2.2	23	12.9	50	28.1	65	36.5	36	20.2	178	QEIA
Geometry	2009-2010	6	100	0	0	0	0	0	0	0	0	6	
Grade 07	2007-2008	17	4.3	79	19.9	127	32	104	26.2	70	17.6	397	
	2008-2009	33	9	86	23.4	136	37.1	83	22.6	29	7.9	367	QEIA
	2009-2010	77	20	93	24.2	103	26.8	89	23.1	23	6	385	QEIA

CST History-Social Science													
	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Grade 08	2007-2008	28	3.6	73	9.4	236	30.3	228	29.3	213	27.4	778	
	2008-2009	68	17.6	83	21.4	113	29.2	63	16.3	60	15.5	387	QEIA
	2009-2010	60	15.1	62	15.6	109	27.4	68	17.1	99	24.9	398	QEIA

CST Science													
	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Grade 08	2007-2008	146	18.6	199	25.4	186	23.7	140	17.8	114	14.5	785	
	2008-2009	146	40.8	92	25.7	56	15.6	44	12.3	20	5.6	358	QEIA
	2009-2010	183	49.3	77	20.8	62	16.7	30	8.1	19	5.1	371	QEIA

CST Summary Report Toro Canyon Middle School

CST English-Language Arts	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Grade 07	2007-2008	26	5.3	76	15.5	123	25.1	137	28	128	26.1	490	
	2008-2009	13	2.6	98	19.5	189	37.6	114	22.7	89	17.7	503	
	2009-2010	19	4.3	108	24.5	135	30.7	97	22	81	18.4	440	
Grade 08	2007-2008	36	6.9	82	15.6	161	30.7	133	25.4	112	21.4	524	
	2008-2009	31	7.1	86	19.6	177	40.4	87	19.9	57	13	438	QEIA
	2009-2010	47	9.6	68	13.8	161	32.8	127	25.9	88	17.9	491	QEIA

CST Mathematics	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Algebra I	2007-2008	5	7.9	30	47.6	18	28.6	10	15.9	0	0	63	
	2008-2009	11	2.3	49	10.2	83	17.3	206	42.9	131	27.3	480	
	2009-2010	24	7.3	77	23.3	86	26	105	31.7	39	11.8	331	QEIA
General Math	2007-2008	2	0.4	73	16	156	34.3	153	33.6	71	15.6	455	
	2008-2009	0	0	5	38.5	3	23.1	4	30.8	1	7.7	13	
	2009-2010	0	0	9	4.8	57	30.3	86	45.7	36	19.1	188	QEIA
Geometry	2007-2008	1	100	0	0	0	0	0	0	0	0	1	
Grade 07	2007-2008	5	1.3	61	16	128	33.6	120	31.5	67	17.6	381	
	2008-2009	53	10.5	106	21	131	26	146	29	68	13.5	504	
	2009-2010	66	14.9	129	29.1	116	26.1	95	21.4	38	8.6	444	QEIA

CST History-Social Science	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Grade 08	2007-2008	21	4	70	13.4	169	32.4	154	29.5	108	20.7	522	
	2008-2009	29	5.9	73	14.8	164	33.3	112	22.7	115	23.3	493	QEIA
	2009-2010	33	6.1	65	12.1	144	26.7	102	18.9	195	36.2	539	QEIA

CST Science	Year	Advanced		Proficient		Basic		Below Basic		Far Below Basic		Total	
		N	%	N	%	N	%	N	%	N	%	N	
Grade O8	2007-2008	76	14.6	141	27	113	21.6	93	17.8	99	19	522	
	2008-2009	73	16.4	110	24.7	108	24.2	72	16.1	83	18.6	446	
	2009-2010	91	18.3	107	21.5	114	22.9	95	19.1	91	18.3	498	
	20010-11	TBD		TBD		TBD		TBD		TBD		TBD	QEIA

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-18

ITEM #W-18

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Compton Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at **McKinley Elementary School** (requesting 25.0:1 ratio on average in core classes in grade five). Waiver Number: 131-2-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: (1) This waiver applies only to classes in grade five at McKinley Elementary School (ES); (2) McKinley ES establish the average class size in core classes at the school level to 25.0 students per classroom in grade five in the 2010–11 school year and in all subsequent years in which the school receives Quality Education Investment Act (QEIA) funding; and (3) within 30 days of approval of this waiver, Compton Unified School District (USD) must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the class size reduction (CSR) requirement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

SUMMARY OF PREVIOUS (Cont.)

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including CSR, for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is ten students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

Compton USD is an urban school district located in Los Angeles County. McKinley ES serves students in kindergarten through fifth grade. Compton USD has a student population of approximately 26,000 students. The district provided class size information from 2005–06, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes in English, mathematics, history-social science, and science in grade five is 19.0 students.

The district states that during the 2005–06 base year calculation, McKinley ES grade five class size was low because this was the first year the school expanded its enrollment to include fifth graders. The enrollment expectations for fifth grade did not meet the district's expectations as only 19 students enrolled as fifth graders. An unintended consequence of this action was that the district calculation of the McKinley ES average class size was low in the California Basic Educational Data System. Compton USD requests a waiver of the QEIA CSR targets for grade five and establishment of an alternative CSR target of 25.0 on average per class in grade five based on 2006–07 fifth grade enrollment data that more accurately reflects actual enrollment.

SUMMARY OF KEY ISSUES (Cont.)

Department staff supports Compton USD's request to reduce its CSR target. This alternative target would be consistent with the intent of QEIA to ensure that students at funded schools benefit from lower class sizes.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in California *Education Code (EC)* Section 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: McKinley ES has a student population of 450 students, and is located in an urban area in Los Angeles County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 30, 2014

Local board approval date(s): February 22, 2011

Public hearing held on date(s): February 22, 2011

Bargaining unit(s) consulted on date(s): January 31, 2011

Name of bargaining unit/representative(s) consulted: California Teachers Association, Elsie Truby, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other (specify) Posted on District Web site

Advisory committee(s) consulted: McKinley Elementary School – Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 12, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	7	3	4	3	7

Local educational agency: **Compton Unified School District**	Contact name and Title: Ann Cooper, Senior Director Special Projects	Contact person's e-mail address: **acooper@compton.k12.ca.us**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): (310) 639-4321, ext. 55144 Fax Number: (310) 632-2825
501 South Santa Fe Avenue	Compton	CA	90221	

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: ~~9/1/07~~ 7/1/2010 To: 6/30/14	February 22, 2011	February 22, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): EC 52055.740 © Circle One: ***{EC}*** or *CCR*

   Topic of the waiver: QEIA Class Size Reduction

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _**x**_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): January 31, 2011

   Name of bargaining unit and representative(s) consulted: California Teachers Association CTA (Elsie Truby), President per Regina Moss jb 3/9/11

   The position(s) of the bargaining unit(s): __ Neutral _**X**_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper __X__ Notice posted at each school X Other: *(Please specify)* Posted on District Website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: 2/12/11 - McKinley Elementary School Site Council

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

~~(i) At least five pupils fewer per classroom than was the average in 2006-07.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The base year for calculating Class Size Reduction targets at McKinley Elementary School was 2005-2006. This was the same year the school first expanded its enrollment to include fifth graders. The enrollment expectation for fifth grade did not meet the district's expectations as only 19 students enrolled as fifth graders at Mc Kinley Elementary School in 2005-20006. In 2006-2007, fifth grade enrollment increased to 92 students. The students were separated into three self-contained classrooms with an average enrollment of 30:7 per class.

The District's contracted staffing ratio for grades 4-12 is 34:1.

Compton USD is requesting a waiver to allow CSR targets for fifth grade only at McKinley Elementary School to be calculated using 2006-2007 enrollment for the base year. The 2006-2007 fifth grade enrollment more accurately reflects the actual enrollment projections for the added grade level.

Year	Number of Classes	Average Class Enrollment	QEIA CSR Target
2005-2006	**1**	**19**	**14**
2006-2007	**3**	**30.7**	**25**
2007-2008	**3**	**27.67**	**14**
2008-2009	**3**	**28.67**	**14**
2009-2010	**3**	**23.33**	**14**

8. Demographic Information:

McKinley Elementary has a K-5 student population of **450** and is located in Los Angeles County. Compton Unified has 40 schools which include three (3) Comprehensive High Schools eight (8) middle schools five (5) alternative/continuation schools and twenty four elementary schools. The Compton Unified School District provides instructional services to approximately 26, 000 students. The ethnic composition of the Compton Unified School District is 69% Latino and 31% African American.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)
Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Karen Frison, Acting Superintendent

Signature of Superintendent or Designee:	Title: Acting Superintendent	Date: February 11, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-19

ITEM #W-19

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Farmersville Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at **Snowden Elementary School**, **Freedom Elementary School**, and **Farmersville Junior High School** (requesting 25:1 ratio on average in core classes in grades two through eight). Waiver Number: 39-3-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: (1) This waiver applies only to classes in grade two through eight at Snowden Elementary School (ES), Freedom ES, and Farmersville Junior High School (HS); (2) Snowden ES, Freedom ES, and Farmersville Junior HS must establish the average class size at the school level to 25.0 students per classroom in core classes in grades two through eight in the 2010–11 school year and in all subsequent years in which the school receives Quality Education Investment Act (QEIA) funding; and (3) within 30 days of approval of this waiver, Farmersville Unified School District (USD) must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the class size reduction (CSR) requirement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

SUMMARY OF PREVIOUS (Cont.)

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including CSR, for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is ten students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

Farmersville USD is a rural school district in Tulare County. Snowden ES serves students in grades two and three, Freedom ES serves students in grades four and five, and Farmersville Junior HS serves students in grades six through eight. Farmersville USD has a student population of approximately 3,500 students. The district provided class size information from 2005–06, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes of English, mathematics, history-social science, and science in grades two through eight range from 18.7 to 24.3 students.

The district states that cuts to revenue limit funding have resulted in teacher reductions causing an increase of the student-to-teacher ratio. Since only the three QEIA funded schools within the district maintain grades two through eight, the district cannot transfer students to other non-QEIA schools. Farmersville USD requests a waiver of the QEIA CSR targets for grades two through eight and establishment of an alternative CSR target of 25.0 on average per class in grades two through eight, respectively.

SUMMARY OF KEY ISSUES (Cont.)

Department staff supports Farmersville USD's request to reduce its CSR target. This alternative target would be consistent with the intent of QEIA to ensure that students at funded schools benefit from lower class sizes.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in California *Education Code (EC)* Section 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Snowden ES has a student population of 395, Freedom ES has a student population of 419, and Farmersville Junior HS has a student population of 2,437 and is located in a rural area in Tulare County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 30, 2014

Local board approval date(s): February 22, 2011

Public hearing held on date(s): February 22, 2011

Bargaining unit(s) consulted on date(s): February 3, 2011

Name of bargaining unit/representative(s) consulted: Farmersville Teachers Association, Melinda Urton, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☐ posting at each school ☒ other District Office, Post Office, City Hall

Advisory committee(s) consulted: Farmersville Unified School District

Superintendent's Cabinet, Freedom Elementary School, Farmersville Junior High School, and Snowden Elementary School – Schoolsite Councils

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 8, 22, and 28, 2011, respectively

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 3/16/07) http://www.cde.ca.gov/re/lr/wr/
Page 1 of 2

First Time Waiver: ☒
Renewal Waiver: ☐

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Faxed originals will not be accepted!

CD CODE						
5	4	7	5	3	2	5

Local educational agency:	Contact name and recipient of approval/denial notice:	Contact person's e-mail address:
Farmersville Unified School District	**Grant Schimelpfening**	**gschimel@farmersville.k12.ca.us**

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary):
571 E. Citrus	Farmersville	CA	93223	559-592-2010 x 1108 Fax Number: 559 592-2203

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/2010 To: 6/30/2014	February 22, 2011	February 11, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **52055.740** Circle One: **EC** or *CCR*

Topic of the waiver: **QEIA Class Sizes**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: **Not Applicable** and date of SBE Approval

3. Collective bargaining unit information. Does the district have any employee bargaining units? ☐ No **XX Yes** If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): **02/03/2011**

Name of bargaining unit and representative(s) consulted: Farmersville **Teachers' Association, Melinda Urton, President**

The position(s) of the bargaining unit(s): ☐ Neutral **XX Support** ☐ Oppose (*Please specify why*)
Comments (if appropriate**): The Bargaining Unit members listed above, as well as our School Site Council unanimously agreed in separate meetings to support this waiver request.**

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

☐ Notice in a newspaper ☒ Notice posted at District Office, Post Office, City Hall on February 24, 2011 Other: *(Please specify)* Board Agenda Item 10.1 March 8, 2011

5. Advisory committee/School site councils. Please identify the council(s) or committee that reviewed this waiver: Bargaining members aforementioned on this waiver, Farmersville USD Superintendent's Cabinet, Snowden Elementary's School Site Council, Freedom Elementary's School Site Council, and Farmersville Junior High School's School Site Council.

Date the committee/council reviewed the waiver request: **February 8, 2011 (Freedom); February 22, 2011 (Farmersville Junior High School); February 28, 2011 (Snowden Elementary)**

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 3/16/07)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (or use a strike out key if only portions of sections are to be waived).

Education Code 52055.740 For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements: (c) For all classes in English Language Arts, reading, mathematics, science, or history and social science courses in grades K to 8, inclusive, and average classroom size that is the lesser of clause (i) or (ii) as follows: (i) ~~At least five pupils fewer per classroom than was the average in 2006-07~~. (ii) An average of 25 pupils per classroom. (iii)For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of subject-specific classrooms in that "grade" at the school site.

7. Desired outcome/rationale. State what you hope to accomplish with the waiver. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

The District is requesting a permanent single QEIA baseline target of 25:1 for grades 2-8 to fiscally support and meet all of the QEIA component mandates for the time periods of July 1, 2010 through June 30, 2014.

Each of the schools in the district is a Title 1 school with approximately 85% of its students receiving free or reduced lunch. Approximately 42% of our student population is English Language Learners. State level cuts to revenue limit funding have resulted in teacher reductions causing an increase of the student-to-teacher ratio. Since only the three QEIA funded schools within the district maintain grades 2-8, the district cannot transfer students to other non-QEIA schools within the district.

Class sizes were recalculated and revised by the County Office of Education that give the formulaic targets, which show the student-teacher ratios. Approval of this waiver will permit Snowden Elementary, Freedom Elementary and Farmersville Junior High Schools to maintain and continue to make necessary improvements in its infrastructure and technology, thus positively impacting student achievement. The QEIA grant will allow the district to work towards bringing down the student to teacher ratio in all the grades over a manageable time frame and continued funding would help the district avoid substantial teacher reductions in the future.

8. For a renewal waiver only, district also must certify**:** **Not Applicable**

True	False	
☐	☐	The facts that precipitated the original waiver request have not changed.
☐	☐	The remedy for the problem has not changed.
☐	☐	Members of the local governing board and district staff are not aware of the existence of any controversy over the implementation of this waiver or the request to extend it.

Renewals of General Waivers must be submitted two months before the active waiver expires. The local governing board must approve the renewal request. Retroactive waivers must go through the First Time Waiver Process.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) **No** ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)
Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CCR* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Superintendent	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY

Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

			2010-11					
Site	Grade	CSR Goal	Estimated Enrollment	Classes/Sections	Avg. Class Size	Over (Under) Goal	Goal Met?	Additional Teachers or Sections Needed
Snowden	2	20.44	219	9	24.33	3.89	NO	2
	3	20.44	176	8	22.00	1.56	NO	1
Freedom	4	22.3	201	8	25.13	2.83	NO	2
	5	24.3	218	8	27.25	2.95	NO	1
FJHS	6	19.3	193	8	24.13	4.83	NO	2
	7	22.3	1145	50	22.90	0.60	NO	2
	8	18.7	1099	51	21.55	2.85	NO	8
			Total Teachers Needed for Compliance (K-6):					8
			Core Teachers Needed for Compliance (7-8):					2

				2011-12					
Site	Grade	CSR Goal		Estimated Enrollment	Classes/Sections	Avg. Class Size	Over (Under) Goal	Goal Met?	Additional Teachers or Sections Needed
Snowden	2	20.44		206	9	22.89	2.45	NO	2
	3	20.44		215	8	26.88	6.44	NO	3
Freedom	4	22.3		182	8	22.75	0.45	NO	1
	5	24.3		202	8	25.25	0.95	NO	1
FJHS	6	19.3		214	8	26.75	7.45	NO	4
	7	22.3		1090	50	21.80	(0.50)	YES	-1
	8	18.7		1205	51	23.63	4.93	NO	14
				Total Teachers Needed for Compliance (K-6):					11
				Core Teachers Needed for Compliance (7-8):					3

					2012-13					
Site	Grade	CSR Goal			Estimated Enrollment	Classes/Sections	Avg. Class Size	Over (Under) Goal	Goal Met?	Additional Teachers or Sections Needed
Snowden	2	20.44			225	9	25.00	4.56	NO	3
	3	20.44			202	8	25.25	4.81	NO	2
Freedom	4	22.3			222	8	27.75	5.45	NO	2
	5	24.3			183	8	22.88	(1.43)	YES	0
FJHS	6	19.3			199	8	24.88	5.58	NO	3
	7	22.3			1199	50	23.98	1.68	NO	4
	8	18.7			1147	51	22.49	3.79	NO	11
					Total Teachers Needed for Compliance (K-6):					10
					Core Teachers Needed for Compliance (7-8):					3

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-20

ITEM #W-20

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **King City Union School District** to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at **Del Rey Elementary School** and **Santa Lucia Elementary School** (requesting waiver of all Quality Education Investment Act class size reduction requirements). Waiver Number: 52-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils within the meaning of California *Education Code* (*EC*) Section 33051(a)(1).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including class size reduction (CSR), for the first-time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to 25 students, whichever is lower. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

King City Union School District (USD) is a rural school district located in Monterey County. Del Rey Elementary School (ES) and Santa Lucia ES are two of three schools in the district serving kindergarten through fifth grade. In 2010–11, Del Rey ES served 734 students and Santa Lucia ES served 737 students. King City USD has a student population of 2,394 students. The district provided class size information from 2005–06, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes of English, mathematics, history-social science, and science in grades four and five at Del Rey ES are 19.6 and 21.5 and the average size of core classes at Santa Lucia ES are 19.0 and 23.3, respectively.

The district states that they were in severe financial duress during the period of November 2007 through October 2009. In order to improve the district's fiscal condition and avoid state receivership, the district's governing board took action to eliminate non-Special Education Home to School Transportation, cut custodial staff by fifty percent, and eliminated non-essential support staff. In addition, the governing board took action to lay-off thirty-two teachers and this action raised class sizes to 30:1 at all grade levels beginning in the 2009–10 school year. Neither school met the QEIA CSR targets for the 2009–10 school year and will again miss the targets in 2010–11. The district claims the larger class sizes did not negatively affect student achievement, as both schools had increases in Academic Performance Index (API) and Adequate Yearly Progress (AYP) scores during the 2009–10 school year. King City USD requests a waiver to completely remove the QEIA CSR targets for each of their QEIA schools.

Staff recommends denial of this request based on three factors: (1) QEIA program requirements were known to the district prior to its decision to apply for program participation; (2) QEIA funding is expected to result in significantly reduced class sizes for students at QEIA schools, and students at these schools will not benefit from the

SUMMARY OF KEY ISSUES (Cont.)

anticipated reduction in student-to-teacher ratios if this waiver is granted; and (3) other factors may have resulted in the API and AYP growth and it is unknown if this trend will continue with uncapped class sizes at King City USD.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Del Rey ES and Santa Lucia ES each have a student population of approximately 725 students and are located in a rural area in Monterey County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 30, 2014

Local board approval date(s): March 16, 2011

Public hearing held on date(s): March 16, 2011

Bargaining unit(s) consulted on date(s): March 10 and 21, 2011

Name of bargaining unit/representative(s) consulted: California School Employees Association, Debbie King, President; King City Elementary Teacher's Association, Helen Barge, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify)

Advisory committee(s) consulted: Del Rey Elementary School, Schoolsite Council; Santa Lucia Elementary School, School Site Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: March 11, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute requirements to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (4 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

Attachment 2: K–12 Base Revenue Limit History (1 page) (Original is on file in the SBE Office or the Waiver Office.)

Attachment 3: Enrollment – Primary Status by Subgroup (1 page) (Original is on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _✓__
Renewal Waiver: ____

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
2	7	6	6	0	5	0

Local educational agency: King City Union School District	Contact name and Title: Rory Livingston Assistant Superintendent	Contact person's e-mail address: rlivingston@kcusd.org
Address: (City) (State) (ZIP) 435 Pearl Street, King City California 93930		Phone (and extension, if necessary): 831.385.2232 Fax Number: 831.386.0372
Period of request: (month/day/year) From: July 1, ~~2009~~ 2010 To: June 30, ~~2011~~ 2014	Local board approval date: (Required) March 16, 2011	Date of public hearing: (Required) March 16, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (a) (1) A-D Circle One: ***EC***

   Topic of the waiver: Relief from class size requirements

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _n/a_ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _✓_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): _March 21, 2011___ (KCETA), ___March 10, 2011_ (CSEA)

   Name of bargaining unit and representative(s) consulted: Helen Barge, President, King City Elementary Teacher's Assoc., Debbie King, President, California School Employees Association (King City)

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _✓_ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: Del Rey School Site Council and Santa Lucia School Site Council

   Date the committee/council reviewed the waiver request: _March 11__, 2011 and ___March 11__, 2011 (respectively)

   Were there any objection(s)? No _X__ Yes ___ *(If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(1) Meet all of the following class size requirements:

(A) For kindergarten and grades 1 to 3, inclusive, no more than 20 pupils per class, as set forth in the Class Size Reduction Program (Chapter 6.10 (commencing with Section 52120)).

(B) For self-contained classrooms in grades 4 to 8, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of self-contained classrooms in that grade at the schoolsite. If the self-contained classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a self-contained classroom in grades 4 to 8, inclusive, with more than 27 pupils regardless of its average classroom size.

(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:

(i) At least five pupils fewer per classroom than was the average in 2006-07.

(ii) An average of 25 pupils per classroom.

(iii) For purposes of this subparagraph, average classroom size shall be calculated at the grade level based on the number of subject-specific classrooms in that grade at the schoolsite. If the subject-specific classrooms at the school averaged fewer than 25 pupils per classroom during the 2005-06 school year, that lower average shall be used as the "average in 2006-07" for purposes of this subparagraph. A school that receives funding under this article shall not have a class in English language arts, reading, mathematics, science, or history and social science in grades 4 to 12, inclusive, with more than 27 pupils regardless of its average classroom size.

(D) Not increase any other class sizes in the school above the size used during the 2005-06 school year. If a funded school has a low-enrollment innovative class, it may increase the number of pupils in that class to a number that does not exceed the schoolwide average.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

When King City Union School District applied for and won approval of Quality Education Investment Act (QEIA) funding, schools in California were financed on a significantly different basis than they are today or are projected to be in the future. The District is receiving $2,400,000 less in Revenue Limit Income annually than it received during the 2007-08 school year. The King City Union School District operates two regular K-5 Elementary Schools, one K-5 Charter School and one 6-8 Middle School. Both of its regular Elementary Schools receive QEIA funding. These two schools comprise 68% of the District's General Fund Enrollment. Due to the district's reduction in Unrestricted Revenues, and the significant number of students participating in the QEIA program, the fiscal resources that were available at the time the district made application for the program, and were anticipated to remain available throughout the years of QEIA funding, no longer exist.

For the period of November, 2007 through October, 2009, the district was in severe financial duress and under AB1200 direct supervision by the Monterey County Office of Education, replete with a Fiscal Advisor, two Fiscal experts and a Fiscal Review by FCMAT. Our financial duress was due partially our own actions, including the sharing of administration with the King City Joint Union High School District. The district's financial crisis was further compounded by the State's financial difficulties. The district's financial problems were determined to be caused by the fact that in the 2007/08 school year, the District had $23.5 million in expenditures, with only $19 million in revenue. In order to improve the district's fiscal condition and avoid state receivership, the district's Governing Board in mid-2008/09 took action to eliminate non-Special Ed Home to School Transportation, cut Custodial Staff by 50%, and eliminate non-essential support staff. Additionally, and most significantly, the Governing Board took action lay-off 32 teachers for the following school year. This action raised class sizes to 30:1 at all grade levels beginning in the 2009/10 school year.

Given the parameters of the QEIA formula for CSR, grades K-3 at both Santa Lucia and Del Rey Schools would have to be maintained at 20.4 or below. At Del Rey School, grades 4 and 5 would have to be reduced to class sizes of 19.6 and 21.5, respectively. At Santa Lucia School, grades 4 and 5 would have to be reduced to class sizes of 19.0 and 23.3, respectively. The District, due to its small size and fiscal resources does not have the capacity or flexibility in its Unrestricted General Fund to maintain or reduce class sizes as required in the above referenced Education Code Section. With the flexibility provisions currently in place at the state level for class size reduction, QEIA funding does not approach the full funding of these exceptionally low class sizes.

During the 2008-09 school year, both Del Rey and Santa Lucia Schools met the CSR requirements of QEIA. Neither school met the CSR target for the 2009-10 school year. The larger class sizes did not negatively affect student achievement, as both schools had significant *increases* in API and AYP scores during the 2009-10 school year. The chart below details the rise in achievement between 2008-09 and 2009-10.

	2008-09				**2009-10**			
School	API Growth or (Loss)	AYP Criteria Met	Percent Proficient - ELA	Percent Proficient - Math	API Growth or (Loss)	AYP Criteria Met	Percent Proficient - ELA	Percent Proficient - Math
Del Rey	69 pts.	18 of 20	37.9%	44.7%	59 pts.	18 of 21	39.5%	54.5%
Santa Lucia	(32 pts.)	9 of 17	26.6%	36.4%	48 pts.	17 of 17	37.1%	47.8%

The District believe both QEIA schools are fully capable of meeting all QEIA programmatic goals for student achievement without complying with the CSR provisions contained in this Ed Code Section. Districts have had to be flexible in changing their operations in response to reduced financial resources; it is unfair that the QEIA program expects the District to comply with financial commitment provisions that were conceived during a period of greater abundance. To lose QEIA funding at Del Rey and Santa Lucia Schools would significantly impact the teaching and learning happening for our students.

8. Demographic Information:
King City Union School District has a student population of 2, 394 and is located in rural, Southern Monterey County. 59.1% of our students are English learners and 82.8% of our students are Socio-Economically Disadvantaged.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No x Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No x Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

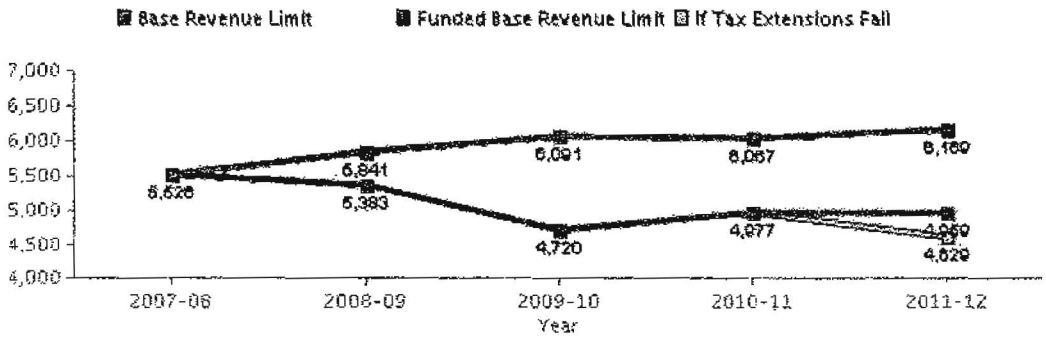
District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

3/9/2011 School Services of California

K-12 Base Revenue Limit Calculator

Base Revenue Limit History



2010-11 K-12 Revenue Limits - KING CITY UNION ELEMENTARY

		Base Revenue Limit per ADA (A)	Proration Factor (B)	Funded Base Revenue Limit (C) = (A) X (B)
1.	2009-10 Base Revenue Limit	6,090.66	0.81645	4,972.72
2.	2010-11 COLA per ADA	-24.00	-	-
3.	2010-11 Base Revenue Limit	6,066.66	0.82037*	4,976.91
4.	Net 2009-10 Funding After per ADA Reduction (Line 1, Column C Minus $252.99)			4,719.73
5.	Dollar Change (Line 3, Column C Minus Line 4, Column C)			257.18
6.	Percent Change (Line 5, Column C Divided by Line 4, Column C)			5.45%

***0.82037 = 1 - .17963 (deficit factor)**

2011-12 K-12 Revenue Limits - KING CITY UNION ELEMENTARY

		Base Revenue Limit per ADA (A)	Proration Factor (B)	Funded Base Revenue Limit (C) = (A) X (B)
1.	2010-11 Base Revenue Limit	6,066.66	0.82037*	4,976.91
2.	2011-12 COLA per ADA	102.00	-	-
3.	2011-12 Base Revenue Limit	6,168.66	0.80392**	4,959.11
4.	Net 2010-11 Funded Revenue Limit			4,976.91
5.	Dollar Change (Line 3, Column C Minus Line 4, Column C)			-17.80
6.	Percent Change (Line 5, Column C Divided by Line 4, Column C)			-0.36%
7.	Per ADA Reduction If Tax Extension Fails			330.00
8.	Net Funded Revenue Limit If Tax Extension Fails (Line 3, Column C Minus Line 7, Column C)			4,629.11

***0.82037 = 1 - .17963 (deficit factor)**

****0.80392 = 1 - .19608 (deficit factor)**

CALPADS

1.1 Enrollment - Primary Status by Subgroup

Academic Year:	2010-2011	LEA:	King City Union		
View:	Snapshot	School Type:	ALL	Created Date:	01-21-2011
As Of:	10/6/2010	School:	ALL	Transaction ID:	XXXXXXXXXXXX

			Subgroups						
School Code	School Name	Primary Enrollments	English Learners	Title III Eligible Immigrants	Gifted and Talented Education	Title I Part C Migrant	Special Education	LEP (EL + Selected RFEP)	Socio-Economically Disadvantaged
6026124	Chalone Peaks Middle	722	236	18	23	76	93	465	613
6106777	Del Rey Elementary	741	426	30	3	60	76	476	627
0107292	King City Arts Charter	238	91	2	0	14	20	101	188
6026132	Santa Lucia Elementary	737	448	32	4	98	82	525	676
TOTAL-Selected Schools		2438	1201	80	30	248	271	1568	2102

Grade:	01-First Grade,02-Second Grade,03-Third Grade,04-Fourth Grade,05-Fifth Grade,06-Sixth Grade,07-Seventh Grade,08-Eighth Grade,09-Ninth Grade,10-Tenth Grade,11-Eleventh Grade,12-Twelfth Grade,KN-Kindergarten,US-Ungraded Secondary,UE-Ungraded Elementary	Ethnicity/Race:	ALL	Gender:	ALL

This report is confidential and use is restricted to authorized individuals.

The data on this report is filtered by the user selections that appear on the last page of this report.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-21

ITEM #W-21

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Taft City School District** to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at **Lincoln Junior High School** (requesting 23:1 ratio on average in core classes in grades six through eight, and 35:1 on average in non-core classes in grade six through eight). Waiver Number: 53-4-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: (1) this waiver applies only to classes in grades six through eight at Lincoln Junior High School (HS); (2) Lincoln Junior HS establish the average class size at the school level to 23.0 students per classroom in core classes and 35.0 in non-core classes in grades six through eight in the 2011–12 school year and in all subsequent years in which the school receives Quality Education Investment Act (QEIA) funding; and (3) within 30 days of approval of this waiver, Taft City School District (SD) must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the class size reduction (CSR) requirement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

SUMMARY OF PREVIOUS (Cont.)

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including CSR, for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

Taft City SD is a rural school district located in Kern County. Lincoln Junior HS is the only school in the district that serves students in grades six through eight. In 2010–11, Lincoln Junior HS served a total of 710 students. Taft City SD has a student population of 2,108 students. The district provided class size information from 2005–06, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes in English, mathematics, history-social science, and science in grades six, seven, and eight are 19.3, 21.4, and 19.0, with an average of 25.5 in non-core classes.

The district states that hiring teachers to maintain the QEIA CSR targets is unattainable due to budget constraints and also the elimination of two sections of algebra being funded by the Taft Union High School District (UHSD). Taft UHSD provided a certificated teacher to teach two sections of algebra for several years. Beginning in 2011–12, Taft UHSD will no longer provide for those two algebra sections. Taft City SD requests a waiver to adjust the QEIA CSR target for grades six through eight and to establish an alternative CSR target of 23.0 on average in core classes in grades two through eight, and 35.0 on average per class for non-core classes in grades two through eight, respectively.

SUMMARY OF KEY ISSUES (Cont.)

The Department staff supports Taft City SD's request to reduce its CSR target. This alternative target would be consistent with the intent of QEIA to ensure that students at funded schools benefit from lower class sizes.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Lincoln Junior HS has a student population of 710 students and is located in a rural area in Kern County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to June 30, 2014

Local board approval date(s): April 26, 2011

Public hearing held on date(s): April 26, 2011

Bargaining unit(s) consulted on date(s): April 27, 2011

Name of bargaining unit/representative(s) consulted: Taft Elementary Teachers Association, Patricia Carino, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☐ other (specify)

Advisory committee(s) consulted: Lincoln Junior High School, Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: April 12, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (2 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	5	6	3	8	0	0

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Taft City School District	Ron Bryant, Superintendent	rbryant@taftcity.org

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 661- 763-1521
820 Sixth St.	Taft	California	93268	Fax Number: 661-763-1495

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: July 1, 2011 To: June 28, 2013	April 26, 2011	April 26, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): Section 52055.740 (a) Circle One: *EC* or *CCR*
Topic of the waiver: Regarding Class size reduction requirements under the Quality Education Investment Act

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _No__ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): April 27, 2011

Name of bargaining unit and representative(s) consulted: Taft Elementary Teachers Association, Patricia Carino, President And Lincoln Jr. High School Staff.

The position(s) of the bargaining unit(s): __ Neutral ___Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

___ Notice in a newspaper _X__ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: April 12,2011
Lincoln JH – School Site Council

Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Request by **Taft City School District** to waive portions of California Education Code Section 52055.740 (a),regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010-11 school year for **Lincoln Junior High** (requesting 22:1 ratio on average in grade six and 22:1 ratio on average in grade seven and 21:1 ratio in grade eight and non-core classes at 28:1 ratio on average in grade eight).

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

Taft City School District is a rural school district in Kern County. Lincoln Junior High is the only school in the district that serves students in sixth, seventh and eighth grade. In 2010-2011, Lincoln Junior High served a total of 710 students. Taft City School District has a total population of 2,108 students. The district provided class size information from 2005-06, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes of English, mathematics, history-social science, and science in grades six, seven, and eight are 19.3:1, 21.4:1, and 19:1 along with 25.5:1 class size average in non-core classes. The district states that hiring teachers to maintain the QEIA CSR targets is unattainable due to budget constraints and also the elimination of two sections of algebra being funded by the Taft Union High School District. Taft Union High School District provided a certificated teacher to teach two sections of Algebra for several years. Beginning in 2011-12 the Taft Union High School District will no longer provide for those two sections. Taft City School District requests a waiver of the QEIA CSR targets for grades six, seven, and eight and establishment of an alternative CSR target of 22:1, 22:1, and 21:1 on average per class in grades six, seven, and eight respectively for core classes and 28:1on average per class for non-core classes in grade eight.

8. Demographic Information:

Taft City School District has a student population of 2,108 students and Lincoln JH has a student population of 710 (at CBEDS). Taft City School District is located in a rural city in Kern County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No **X** Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-22

ITEM #W-22

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **West Contra Costa Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at **John F. Kennedy High School** (requesting 24.5:1, 24.4:1, 24:1, and 21:1 ratio on average in core classes in grades nine, ten, eleven, and twelve). Waiver Number: 121-2-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: (1) This waiver applies only to classes in grades nine through twelve at John F. Kennedy High School (HS); (2) John F. Kennedy HS establish the average class size in core classes at the school level to 24.5 students per classroom in grade nine, 24.4 students per classroom in grade ten, 24.0 students per classroom in grade eleven, and 21.0 students per classroom in grade twelve in the 2010–11 school year and in all subsequent years in which the school receives Quality Education Investment Act (QEIA) funding; and (3) within 30 days of approval of this waiver, West Contra Costa Unified School District (USD) must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the class size reduction (CSR) requirement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

SUMMARY OF PREVIOUS (Cont.)

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including CSR, for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size.The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

West Contra Costa USD is an urban school district in Contra Costa County. John F. Kennedy HS is located in Richmond, and serves students in grades nine through twelve. West Contra Costa USD has a student population of 30,100 students. The district provided class size information from 2005–06, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes of English, mathematics, history-social science, and science in grades nine through twelve at 18.3, 19.2, 16.2, and 14.6, respectively.

The district states that hiring teachers to maintain the QEIA CSR targets is unattainable using the funding available. During the base year calculation, John F. Kennedy HS class sizes were artificially low because at that time High Priority Schools Grant funds were available to reduce class sizes, teachers elected to create a seven-period day to accommodate intervention classes in math and English, and District Program Improvement funds were used to hire additional teachers. An unintended consequence of this action was that the district calculation of the John F. Kennedy HS average class size was low in California Basic Educational Data System.

SUMMARY OF KEY ISSUES (Cont.)

West Contra Costa USD requests a waiver of the QEIA CSR targets for grades nine through twelve and establishment of an alternative CSR target on average per class in grades nine through twelve of 24.5, 24.4, 24.0, and 21.0, respectively.

Department staff supports West Contra Costa USD's request to reduce its CSR target. This alternative target would be consistent with the intent of QEIA to ensure that students at funded schools benefit from lower class sizes.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in California *Education Code* (*EC)* Section 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: John F. Kennedy HS has a student population of 980 students, and is located in an urban area in Contra Costa County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 30, 2014

Local board approval date(s): February 16, 2011

Public hearing held on date(s): February 16, 2011

Bargaining unit(s) consulted on date(s): February 14, 2011

Name of bargaining unit/representative(s) consulted: United Teachers of Richmond, Diane Brown, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)
Advisory committee(s) consulted: John F. Kennedy High School – Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: October 6, 2010

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
0	7	6	1	7	9	6

Local educational agency: John F. Kennedy High School West Contra Costa Unified School District	Contact name and Title: **Nia Rashidchi** Assistant Superintendent of Educational Services	Contact person's e-mail: NRashidchi@wccusd.net
Address: (City) (State) (ZIP) 1108 Bissell Ave. Richmond CA 94801		Phone (and extension, if necessary): 510-231-1130 Fax Number: 510-620-2183
Period of request: (month/day/year) From: July 1, 2010 To: June 30, 2014	Local board approval date: (Required) February 16, 2011	Date of public hearing: (Required) February 16, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (C)(i) Circle One: (EC) or *CCR*

Topic of the waiver: QEIA Mandated Class Size Reduction Goal

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A__ and date of SBE Approval_____
Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? ___ No _X_ Yes If yes, please complete required information below:

Bargaining unit(s) consulted on date(s): February 14, 2011

Name of bargaining unit and representative(s) consulted: United Teachers of Richmond; Diane Brown, President

The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

How was the required public hearing advertised?

_X__ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

Date the committee/council reviewed the waiver request: John F. Kennedy School Site Council, October 6, 2010

Were there any objection(s)? No _X__ Yes____ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.**740**. (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(Strike out as follows.)

~~(i)At least five pupils fewer per classroom than was the average in 2006-07.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

To accomplish our academic goals, we are requesting a General Waiver that establishes class size reduction requirements at:

Grade 9	**Grade 10**	**Grade 11**	**Grade 12**
24.5:1	24.4:1	24:1	21:1

We consider class size reduction to be one of the most important interventions available. However, the mandated base year data that was used was skewed due to short term factors that dramatically reduced class size during 2005-2006. The factors include:

1. High Priority Schools Grant (HPSG) funds were awarded to hire teachers to reduce class size
2. Kennedy teachers voted to implement a 7-period day to accommodate intervention classes in Math and English which created more periods per day with fewer students in each class
3. District Program Improvement funds were used to hire 8 additional teachers

Since that time, HPSG funds have expired and the faculty voted to return to a 6-period day in order to add more instructional minutes per period to all classes. This change in program configuration reduced the number of classroom teachers, provided fewer sections of core classes, and thereby increased class sizes. In addition, District Program Improvement funds were no longer available for hiring additional teachers to reduce class sizes. Finally, due to statewide fiscal challenges, WCCUSD has reduced staffing allocations at all schools from ratios of 26:1 to current levels of 38:1.

Continued on Attached Document

8. Demographic Information:

Kennedy is a High School in Richmond, CA, with 980 students. The population is 85% free and reduced lunch, 30% English learners, 51% Latino/Hispanic, 36% African American, 7% Asian, 2% White, and 2% Filipino.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding) What's this?

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Section 7 Continued - Attachment-QEIA General Waiver, Kennedy High School

With current QEIA funding, Kennedy supports 8.2 additional teachers for CSR as well as 2 counselors. However, at current levels, Kennedy does not receive sufficient funds to pay for the mandated class sizes of:

Grade 9	**Grade 10**	**Grade 11**	**Grade 12**
18.3:1	19.2:1	16.2:1	14.6:1

Continued QEIA funding allows for class size ratios at the requested target size and supports differentiated instruction which is essential for improving student learning in all of our courses.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-23

ITEM #W-23

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **West Contra Costa Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at **Helms Middle School** (requesting 24.7:1 ratio on average in core classes in grade seven and 25:1 ratio in grade eight). Waiver Number: 122-2-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends that: (1) This waiver applies only to classes in grade seven and eight at Helms Middle School (MS); (2) Helms MS establish the average class size in core classes at the school level to 24.7 students per classroom in grade seven and 25.0 students per classroom in grade eight in the 2010–11 school year and in all subsequent years in which the school receives Quality Education Investment Act (QEIA) funding; and (3) Within 30 days of approval of this waiver, West Contra Costa Unified School District (USD) must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the class size reduction (CSR) requirement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

SUMMARY OF PREVIOUS (Cont.)

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including CSR, for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

West Contra Costa USD is an urban school district in Contra Costa County. Helms MS is located in San Pablo, and serves students in seventh and eighth grade. West Contra Costa USD has a student population of 30,100 students. The district provided class size information from 2005–06, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes in English, mathematics, history-social science, and science in grades seven and eight are 20.4 and 20.9 students.

The district states that hiring teachers to maintain the QEIA CSR targets is unattainable using the funding available. During the base year calculation, Helms MS class sizes were artificially low because teachers elected to create a seven-period day to alleviate impacted schedules of students taking English-language development and either a math or reading intervention course.

SUMMARY OF KEY ISSUES (Cont.)

An unintended consequence of this action was that the district calculation of the Helms MS average class size was low in California Basic Educational Data System. West Contra Costa USD requests a waiver of the QEIA CSR targets for grades seven and eight and establishment of an alternative CSR target of 24.7 and 25.0 on average per class in grades seven and eight, respectively.

CDE staff supports West Contra Costa USD's request to reduce its CSR target. This alternative target would be consistent with the intent of QEIA to ensure that students at funded schools benefit from lower class sizes.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in California *Education Code* (*EC)* Section 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Helms MS has a student population of 950 students, and is located in an urban area in Contra Costa County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 30, 2014

Local board approval date(s): February 16, 2011

Public hearing held on date(s): February 16, 2011

Bargaining unit(s) consulted on date(s): February 14, 2011

Name of bargaining unit/representative(s) consulted: United Teachers of Richmond, Diane Brown, President.

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):
Public hearing advertised by (choose one or more):

☒ posting in a newspaper ☐ posting at each school ☐ other

Advisory committee(s) consulted: Helms Middle School – Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: November 4, 2010

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: _X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
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Local educational agency: Helms Middle School West Contra Costa Unified School District	Contact name and Title: **Nia Rashidchi** Assistant Superintendent of Educational Services	Contact person's e-mail: nrashidchi@wccusd.net
Address: (City) (State) (ZIP) 1108 Bissell Ave. Richmond CA 94801		Phone (and extension, if necessary): 510-231-1130 Fax Number: 510-620-2183
Period of request: (month/day/year) From: July 1, 2010 To: June 30, 2014	Local board approval date: (Required) February 16, 2011	Date of public hearing: (Required) February 16, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): 52055.740 (C)(i) Circle One: (EC) or *CCR*

   Topic of the waiver: QEIA Mandated Class Size Reduction Goal

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _N/A__ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _X_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): February 14, 2011

   Name of bargaining unit and representative(s) consulted: United Teachers of Richmond; Diane Brown, President

   The position(s) of the bargaining unit(s): __ Neutral _X_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _X__ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: Helms School Site Council, 11/4/2010

   Were there any objection(s)? No _X__ Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.**740** (a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:

(Strike out as follows.)

~~(i)At least five pupils fewer per classroom than was the average in 2006-07.~~

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

In the fall of 2010-11, Helms moved into a newly constructed building and added a new administrative team. These major changes are coupled with a targeted focus on safety, rigorous instruction and high expectations for student achievement. Class size reduction directly supports this renewed emphasis on high achievement for all students and student subgroups by allowing teachers to work more closely with individual students and provide them with differentiated instruction designed to meet their unique needs.

To accomplish this goal, we are requesting a General Waiver that establishes class size reduction requirements at 24.7:1 for 7th grade and 25:1 for the 8th grade for the remainder of the QEIA grant period. We consider class size reduction to be one of the most important interventions available in moving all students to proficient or higher academic levels. Unfortunately, the current core class size reduction goals of 20.4:1 and 20.9:1 for the 7th and 8th grades are unattainable for Helms using the funding available.

During the mandated base calculation year of 2005-06, Helms experienced a statistical anomaly which caused the calculated class sizes to be artificially low. From 2004-05 to 2008-09 teachers elected, without additional pay, to create a seven-period day in order to alleviate the impacted schedules of the majority of Helms students who are required to take ELD and either a math or reading intervention course. An unintended consequence of this action was that the district calculation of the Helms average class size was lowered in CBEDs. By creating a seven period day, every teacher voluntarily assumed an extra period which created an extra section per teacher in the master schedule. This configuration increased the total number of sections for the school and lowered the average core class size.

Continued On The Attached Document

8. Demographic Information:

Helms Middle School is in San Pablo, CA, and has 950 students. The school population is 77% Latino/Hispanic, 11% African American, 7% Asian, and 3% White; 35% of students are currently in English Language Development classes and 92% of Helms students receive free or reduced lunch.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title:	Date:

FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

Section 7 Continued - Attachment-QEIA General Waiver, Helms Middle School

The positive result of this was that classes were reduced by 5.4 students on the average. This significant change is depicted in the table below.

	6 Period Day =5 Teaching Periods	7 Period Day =6 Teaching Periods
Period	Description and Size-	Description and Size-
1	Class-32 Students	Class-27 Students
2	Prep Period-No Students	Prep Period-No Students
3	Class-32 Students	Class-27 Students
4	Class-32 Students	Class-26 Students
5	Class-32 Students	Class-27 Students
6	Class-32 Students	Class-27 Students
7	No 7th Period	Class-26 Students
Sum of individual Class Sizes	160 Students	160 Students
Number of Sections	5 sections	6 sections
Average Class Size	160÷5 = 32	160÷6 = 26.6

Due to the fact that base numbers used to calculate the QEIA Class Size Reduction were skewed during the critical base year, we request to re-set Helms' QEIA funded CSR numbers at 24.7:1 and 25:1 students per section. This number is a significant decrease from the pre-QEIA class sizes, as well as the current district-wide class sizes. Major changes in our administration team, facilities, and safety protocols, as well as an increased focus on rigorous instruction have created significant improvements in the school climate. The Helms staff expects improved academic performance for all of our students due to our productive use of the QEIA funding. We are proud of the progress we have made and look forward to continued improvements in student achievement with core classes capped at 24.7:1 and 25:1.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-24

ITEM #W-24

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **San Diego Unified School District** to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce their class sizes by an average of five students per class by the end of the 2010–11 school year at **Roosevelt International Baccalaureate Middle School** (requesting 20.9:1 ratio on average in core classes in grade six, 20.7:1 in grade seven, and 21.1:1 for grade eight). Waiver Number: 16-5-2011	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☒ **Approval with conditions** ☐ **Denial**

The California Department of Education (CDE) recommends approval with the following conditions: (1) this waiver applies only to classes in grades six through eight at Roosevelt International Baccalaureate Middle School (IBMS); (2) Roosevelt IBMS establish the average class size at the school level to 20.9 students per classroom in core classes in grade six, 20.7 in grade seven, and 21.1 in grade eight in the 2010–11 school year and in all subsequent years in which the school receives Quality Education Investment Act (QEIA) funding; and (3) within 30 days of approval of this waiver, San Diego Unified School District (USD) must provide to the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available, if any, through this waiver of the class size reduction (CSR) requirement.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the QEIA to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

SUMMARY OF PREVIOUS (Cont.)

Former SBE President Theodore R. Mitchell stated that the SBE would be willing to entertain specific petitions that meet the spirit of the QEIA regulation by setting absolute caps for average class size that are below the QEIA mandate and applying averages for grade ranges to meet targets that are appropriate given the circumstances at the schools.

SUMMARY OF KEY ISSUES

Schools participating in QEIA were monitored by their county offices of education for compliance with program requirements, including CSR, for the first time at the end of the 2008–09 school year. They were required to demonstrate one-third progress toward full implementation of program requirements. Monitoring for compliance with second-year program requirements was recently completed to ensure that schools made two-thirds progress toward full implementation in the 2009–10 school year.

Quality Education Investment Act schools are required to reduce class sizes by five students compared to class sizes in the base year (either 2005–06 or 2006–07), or to an average of 25 students per classroom, whichever is lower, with no more than 27 students per classroom regardless of the average classroom size. The calculation is done by grade level, as each grade level has a target average class size based on QEIA CSR rules. For small schools with a single classroom at each grade level, some grade level targets may be very low. If, for example, a school had a single grade four classroom of 15 students in 2005–06, the school's target QEIA class size for grade four is 10 students. Absent a waiver, an unusually low grade level target may result in a greater number of combination classes at the school, or very small classes at the grade level, which is prohibitively costly and may result in withdrawal or termination from the program.

San Diego USD is an urban school district located in San Diego County. Roosevelt IBMS serves students in grades six through eight. San Diego USD has a student population of 131,466 students. The district provided class size information from 2006–07, the base year upon which QEIA CSR targets are calculated, showing that the average size of core classes of English, mathematics, history-social science, and science in grades six, seven, and eight are 15.9, 15.7, and 21.0.

The district states that the 2006–07 school year was selected as the baseline year for QEIA CSR targets. Roosevelt IBMS, at that time, had received an additional eight teaching allocations from the San Diego USD to reduce class size through Program Improvement funding, while simultaneously experiencing declining enrollment. This additional staffing resulted in artificially low class sizes during this year, thus creating the extremely low CSR targets currently in place. Compliance with the QEIA CSR requirements for the 2011–2012 school year will require 46 full-time equivalent teaching staff, which is 16 teachers over the district formula of 30. If allowed to adjust the CSR targets, the QEIA funds and other sources of discretionary funding will be used to ensure compliance.

SUMMARY OF KEY ISSUES (Cont.)

San Diego USD requests a waiver to adjust the QEIA CSR targets for grades six through eight and establishment of alternative CSR targets of 20.9 students per classroom on average in core classes in grade six, 20.7 in grade seven, and 21.1 in grade eight.

The Department staff supports San Diego USD's request to reduce its CSR target. This alternative target would be consistent with the intent of QEIA to ensure that students at funded schools benefit from lower class sizes.

Because this is a general waiver, if the SBE decides to deny the waiver, it must cite one of the seven reasons in *EC* 33051(a). The state board shall approve any and all requests for waivers except in those cases where the board specifically finds any of the following: (1) The educational needs of the pupils are not adequately addressed; (2) The waiver affects a program that requires the existence of a schoolsite council and the schoolsite council did not approve the request; (3) The appropriate councils or advisory committees, including bilingual advisory committees, did not have an adequate opportunity to review the request and the request did not include a written summary of any objections to the request by the councils or advisory committees; (4) Pupil or school personnel protections are jeopardized; (5) Guarantees of parental involvement are jeopardized; (6) The request would substantially increase state costs; or (7) The exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, was not a participant in the development of the waiver.

Demographic Information: Roosevelt IBMS has a student population of 806 students and is located in urban San Diego County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2010, to June 30, 2014

Local board approval date(s): February 22, 2011

Public hearing held on date(s): February 22, 2011

Bargaining unit(s) consulted on date(s): March 28, 2011

Name of bargaining unit/representative(s) consulted: San Diego Education Association, Bill Freeman, President

Position of bargaining unit(s) (choose only one):
☐ Neutral ☒ Support ☐ Oppose:

Comments (if appropriate):

Public hearing advertised by (choose one or more):
☐ posting in a newspaper ☒ posting at each school ☒ other – Posted on district Web site

Advisory committee(s) consulted: Roosevelt International Baccalaureate Middle School, Schoolsite Council

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: February 15, 2011

FISCAL ANALYSIS (AS APPROPRIATE)

There are no statewide costs as a result of waiver approval. If the waiver is denied, the school must implement the reduced class size targets based on the statute to stay in the program.

Any school in the program not meeting those targets will risk the loss of future funding. Through 2010–11, schools found to have not met all program requirements will have one year to correct all shortcomings. If at the end of that year a school is still out of compliance with program requirements, it will be subject to funding termination. After 2010–11, schools found to have not met all program requirements will face potential termination of funding. The QEIA statute calls for any undistributed annual QEIA funding to be redistributed to other schools currently in the program (no new schools are funded). However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (8 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: __X_
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
3	7	6	8	3	3	8

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
San Diego Unified School District	Ron Rode Executive Director, Office of Accountability	rrode@sandi.net

Address: (City) (State) (ZIP)	Phone (and extension, if necessary):
4100 Normal Street, Room 3150 San Diego CA 92103	619-725-7190 Fax Number: 619-725-7180

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
July jb 6/10/11 From: ~~August~~ 1, 2010 To: June 30, 2014	February 22, 2011	February 22, 2011

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number**): 52055.740(a)(1)(C)(i)(ii)** Circle One**: X *EC*** or *CCR*

   Topic of the waiver: Quality Education Investment Act (QEIA) Class Size Requirement

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No *X* Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): March 28, 2011 per Elizabeth Kramer jb 5/12/11

   Name of bargaining unit and representative(s) consulted:
   San Diego Education Association: Bill Freeman, President

   The position(s) of the bargaining unit(s): __ Neutral _x_ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   ___ Notice in a newspaper _X__ Notice posted at each school _X__ Other: *(Please specify)* Posted on district website

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver:

   Date the committee/council reviewed the waiver request: February 15, 2011
   Roosevelt Middle School Site Counsel

   Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

52055.740. Review of funded schools; requirements; termination of funding; appeal

(a) For each funded school, the county superintendent of schools for the county in which the school is located shall annually review the school and its data to determine if the school has met all of the following program requirements by the school by the end of the third full year of funding:
(1) Meet all of the following class size requirements:
(C) For classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, an average classroom size that is the lesser of clause (i) or (ii), as follows:
(i) At least five pupils fewer per classroom than was the average in ~~2006-07.~~
(1) (ii) An average of 25 pupils per classroom.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

SEE ATTACHED

8. Demographic Information:
San Diego Unified School District has a student population of 131,466 and is located in an *urban area*_ in San Diego County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Executive Director, Office of Accountability	Date: February 22, 2011
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

San Diego Unified School District
Roosevelt International Baccalaureate Middle School
3366 Park Boulevard, San Diego, CA 92103 Telephone: 619-293-4450

Arturo Cabello, Ph.D.,

February 2011

Desired Outcome/Rationale

Roosevelt International Baccalaureate Middle School (RIBMS), San Diego Unified School District (SDUSD), requests a QEIA waiver from the original CSR targets of 15.7:1 to 20.9:1 at 6th grade and from 15.9:1 to 20.7:1 at 7th grade for the remainder of the grant. By changing the CSR baseline year to the 2005 – 2006 school year instead of the 2006 – 2007 school year, the more reasonable targets at 6th and 7th grade allow RIBMS to keep the funding that is helping us to change our school from low performing to high achieving.

Grade	2011-12	2012-13	2013-14
Grade 6	20.9:1	20.9:1	20.9:1
Grade 7	20.7:1	20.7:1	20.7:1
Grade 8	21.1:1	21.1:1	21.1:1

Since the original intent of QEIA was to lower core classes to no more than 25:1, this supports the spirit of the lawsuit settlement and the current funding restraints faced by all schools due to the state budget crisis.

By creatively exhausting all flexible funding sources, RIBMS has managed to successfully staff our CSR targets for the past three years. We have now reached a point at which an increase of our baseline targets is necessary to maintain the momentum that will help move our school out of program improvement. The reason for the request is more than the impending budget cuts for 2011-2012. It stems from our unusual situation at the time QEIA was enacted.

The 2006-2007 school year was selected as our baseline year and, thus, we were required to reduce class size by five students or to 25 students, whichever was lower. Roosevelt, at that time, had received an additional eight teaching allocations from SDUSD to reduce class size through Program Improvement funding. Because of this additional staffing, the CSR targets were based on numbers much lower than 25:1. Compliance for the 2011-2012 school year will require 46 FTE which is 16 teachers over the district formula of 30. Our estimated additional costs based on an average salary of $86,500 will be ($1,384,000). With QEIA funding of $770,000, that will leave the site short $614,000.

If allowed to use 2005 -2006 as our baseline and the 2006-2007 targets of 20.9 and 20.7, RIBMS will only have to hire 10 teachers to meet CSR at a cost of $865,000. With the $770,000 from QEIA, we will only have a shortfall of $95,000 and could use discretionary funding to make up the shortage.

QEIA Reduction Target Summary

Grade	2005 Enrollment 2005-06	2006 Class Size 2005-06	2006 Enrollment 2006-07	2007 Class Size 2006-07	2010 Enrollment 2010-11	2011 Class Size 2010-11
6th	304	25.9:1	264	20.9:1	266	15.9:1
7th	368	25.7:1	322	20.7:1	279	15.7:1
8th	327	31:1	379	26:1	257	21:1

The QEIA legislation requires schools to calculate class size averages based on either 2005-06 or 2006-07. Roosevelt Middle School was assigned 2006-2007 as the base year and must reduce class sizes by 5 students or to 25 students, whichever is lower. During 2006-2007, Roosevelt received eight additional teacher allocations, while simultaneously experiencing declining enrollment. This resulted in artificially low class sizes during this year, creating the extremely low CSR targets currently in place at Roosevelt.

We have analyzed enrollment projections, and the district will be able to accommodate future grade level cohorts with reasonable and sustainable district funding contributions only if CSR baseline targets are increased to 20.9 and 20.7:1 Even at this ratio, the district will need to hire 10 QEIA funded teachers.

The proposed increase of our CSR targets will allow Roosevelt greater flexibility in the placement of students who are language learners (33%), special education students (20%) and allow us to have more spots for our GATE and Seminar students.

CSR Targets and Average Requested by the Waiver

Grade	Base year 2005-06	2006-07	2008-09	2009-10	2010-11	Target required by QEIA	Average requested by waiver
6th	25.9	20.9	19.3	17.7	15.9	15.9	+5.0 to 20.9
7th	25.7	20.7	19	17.4	15.7	15.7	+5.0 to 20.7
8th	31	26	23.5	21	21	21	n/a

Projected Enrollment based on 3% decline in enrollment per grade per year

Grade	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
6th	194	258	258	250	242	235
7th	295	263	276	268	260	252
8th	372	293	264	256	249	242
Total	861	814	798	774	751	729

The small class sizes of 15.7:1 and 15.9:1 also greatly affect the appropriate placement of special populations such as Students with special needs like Special Education students, GATE and Seminar students and English Language learners.

Special Education Full Inclusion Issues
Roosevelt supports all students, including those with special needs. Roosevelt has used a full-inclusion service delivery model for several years. Special education students make up over 20% of our population with needs ranging from mild to severe. We employ a variety of teaching models (full inclusion, resource, SEA support, co-teaching, and special day classes) to provide all of our students the least restrictive environment with the greatest access to grade level standards and academic success.

Most schools have about 10% student population with IEPs. At 20%, Roosevelt has a larger than average number of students with special needs making those enrolled in special education 50% over the norm of 10% for a site.

Research indicates that an optimal ratio of students with special needs in a general education setting should not exceed 25% in the classroom. Due to our small class sizes and the larger than average population of students with exceptional needs, some of our general education classes contain up to 47 percent of students with special needs. With the class size target at 15:1, and a reduced district funding formula for special education, the service delivery model for students with exceptional needs has changed from its original intent – to have classes with 75% of the students providing grade level role models - and does not meet the needs of either the general education or special education students.

Transitory nature of Roosevelt Students
Like many urban schools, there is also a significant level of flux in our student population stemming from economic factors, parents in search of specific types of programs (special education, GATE, Seminar), as well as extraordinary circumstances (foster care, shelters). Current CSR targets limit our ability to place students with special needs and incoming students in the most appropriate classes, due to the caps on every class.
Class size fluctuates due to the grade level and nature of the needs of the students. The school is located close to several homeless and women and children shelters. We average eight students a month in group foster homes and these students move in and out of the site as they are placed with foster families. Our population also changes because of the number of homeless students we have who move often due to their circumstances.

Enrollment and Withdrawal During the School Year

Grade	2007-2008 Enrolled	2007-2008 Withdrew	2008-2009 Enrolled	2008-2009 Withdrew	2009-2010 Enrolled	2009-2010 Withdrew	2010-2011 Semester 1 Enrolled	2010-2011 Semester 1 Withdrew
6th	49	42	26	29	22	27	16	8
7th	49	78	45	58	23	33	17	14
8th	61	76	51	55	34	41	14	9

Homeless and Foster Students

Grade	2007			2008				2009				2010				2011
	SH	DU	H/M	F	SH	DU	H/M	F	SH	DU	H/M	F	SH	DU	H/M	F
6th	7	0	0	No data	7	7	0	2	5	2	1	2	2	5	2	2
7th	2	0	0	No data	5	7	0	3	7	10	0	4	7	1	0	3
8th	5	0	0	No data	5	17	2	2	3	7	0	2	11	8	6	3

SH – Shelter DU – Doubling Up H/M – Hotel/Motel F – Foster (Home and Group)

With approximately 20% of the population enrolling and withdrawing during each school year, Roosevelt's transiency rate has a great impact on scheduling students into classes of 15:1. This data shows most movement of students occurs in grades 6 and 7. Allowing an increase of 20.9:1 in grade 6 and 20.7in grade 7, we would better be able to maintain our targets.

CBEDS History: Actual Enrollment Per Grade, Per Year

Grade	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14
6th	302	266	246	191	253	264			
7th	366	322	393	282	253	282			
8th	317	378	332	368	286	260			
Total	999	966	971	841	792	806			

Since the implementation of QEIA, Roosevelt's Academic Performance Index (API) has increased from 637 in 2005-06 to 733 in the 2009-10 school year. It is important to note that in 2007-2008, SDUSD mandated that all 8th grade students take Algebra 1 and 2, resulting in a significant drop in growth. Once we resumed offering 8th grade pre-algebra (Algebra Readiness), our growth began to normalize.

Roosevelt Middle API 2006-2010				
2006	2007	2008	2009	2010
637	668	683	726	733

Not only has Roosevelt demonstrated steady improvement on the state's Academic Performance Index (549 in 2001 to 733 in 2010), we have seen a dramatic change in our API ranking. After six years at "2", the QEIA implementation has been matched with a ranking of "3" and two years at "4." The table below shows the state rank and then the similar schools rank.

	2001	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**
API Rank	2 / 2	2 / 5	2 / 3	2 / 5	2 / 4	2 / 5	3 / 6	4 / 9	4 / 8

Over the past few years we have seen a significant drop in the number of students achieving at the Far Below Basic and Below Basic levels. At the same time, the number of students scoring Proficient and Advanced has increased. The percentage of students scoring Basic, however, has remained fairly stable. In order to make the kinds of gains needed to get out of Program Improvement, we are currently developing a school-wide, systemic initiative to implement instructional practices that foster proficiency. For 2010-11, we have set a goal to become an API 800 school. Even if we are successful, it will still take a few years for this shift to become engrained in our culture to the point where high achievement will continue regardless of class size.

Conclusion

QEIA is about investing in historically low performing schools to improve the quality of education. As an "investment," the intent is to foster systemic program changes that will continue after QEIA funding ends. Any successful investment requires a sustained level of commitment for that organization to use the investment effectively. Schools that have demonstrated remarkable success in raising student achievement have done so through comprehensive initiatives touching on all aspects of the educational program. Class size reduction through QEIA is more than just one piece of Roosevelt's recent success. It has enabled us to embrace comprehensive reform. Smaller class sizes foster increased opportunities for richer teacher-student and student-student dialogue and interactions, as well as reduced time for logistical activities. Anecdotally, we have seen greater parent enthusiasm and confidence in the school. We have made significant progress in converting our curriculum to IB units, but still have two to three years to go before the transformation is complete.

CSR has also facilitated the redesign and implementation of our curriculum and assessment using the more meaningful and rigorous framework required as an International Baccalaureate Middle Years Program.

Thank you for considering the Roosevelt International Baccalaureate Middle School's request to change the CSR baseline year to the 2005 – 2006 school year instead of the 2006 – 2007 school year. These newer targets at 6th and 7th grade allow RIBMS to keep the funding that is supporting us to change our school from low performing to high achieving.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-25

ITEM #W-25

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Los Angeles Unified School District** to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from **Carver Middle School** and **Los Angeles Academy Middle School** to follow identified students who will be transferring to one new school, **Central Region Middle School #7** to ensure that they will not lose the benefits of the Quality Education Investment Act. Waiver Number: 34-10-2010	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ Approval ☐ Approval with conditions ☒ Denial

The California Department of Education (CDE) recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils within the context of California *Education Code (EC)* Section 33051(a)(1).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the Quality Education Investment Act (QEIA) to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

The SBE approved two similar funds expenditure requirement waiver requests by the Los Angeles Unified School District (USD) for Roosevelt High School (HS) at its March 2010 meeting. The first waiver allowed QEIA funding to follow students transferring from the QEIA-funded Roosevelt HS to new schools on the same Roosevelt HS campus; the second waiver allowed the QEIA money from Roosevelt HS to follow the students to Mendez Leaning Center through 2014.

The SBE approved a waiver request by the Los Angeles USD for Alain LeRoy Locke Charter High School (Locke Charter HS) at its May 2009 meeting. That waiver allowed

SUMMARY OF PREVIOUS (Cont.)

Quality Education Investment Act funding to follow students transferring from the QEIA-funded Locke Charter HS to new schools on the same Locke Charter HS campus.

The SBE also heard a request concerning 16 Los Angeles USD schools in January 2009, with no action taken, and for a second time at its March 2009 meeting. In March, a motion to deny the waiver failed and the waiver was automatically granted under *EC* 33052 due to the fact that the SBE did not take formal action on the waiver in two meetings. The waiver was renewed by the SBE in March of 2010, and is now applicable through 2014.

SUMMARY OF KEY ISSUES

Carver Middle School (MS) and Los Angeles Academy MS were chosen to participate in the QEIA program in 2006–07 with a population of approximately 1,963 students and 2,278 students, respectively. The students have been in the program since that time. This waiver is not requesting a change in the class size targets, and the district states they are meeting their targets satisfactorily.

Los Angeles USD states that it plans to open Central Region MS #7 for the 2011–12 school year to relieve overcrowding by 1,350 students of two multi-track QEIA funded schools. The Los Angeles USD stated that all students attending Central Region MS #7 would be students covered by QEIA funding at Carver MS and Los Angeles MS.

The Department recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils within the context of *EC* Section 33051(a)(1).

The QEIA program requirements preclude new schools from participating in the program primarily due to the fact that a large number of schools that originally applied for participation had been excluded from the program due to funding limitations.

An additional concern about adding new schools is that the program has specific timelines for participation, and adding schools at this late date compacts that timeline and limits the ability of the new schools to demonstrate success in the program. Schools that do not meet program requirements stand to lose future QEIA funding, so these new schools would only benefit from QEIA participation for a short time if they are unable to successfully implement the program within the compacted timeline.

Further, due to the fact that QEIA funding is limited, approval of this waiver request would require that the state limit funding for Central Region MS #7, Carver MS, and Los Angeles Academy MS to the level that has been currently provided to Carver MS and Los Angeles Academy MS. Unanticipated growth at the schools could encroach on the program's capacity to meet its statewide funding requirements.

Demographic Information: Los Angeles USD has a student population of 678,441 and is located in an urban area in Los Angeles county.

Authority for Waiver: *EC* Section 52863

Period of request: July 1, 2011, to June 30, 2014

Local board approval date(s): November 16, 2010

Public hearing held on date(s): November 16, 2010

Bargaining unit(s) consulted on date(s): October 26, 2010

Name of bargaining unit/representative(s) consulted: United Teachers Los Angeles (UTLA) / Gregg Solkovits

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose

Comments (if appropriate): None

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: District English Learner Advisory Committee (DELAC)

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: October 28, 2010

FISCAL ANALYSIS (AS APPROPRIATE)

Denial of this waiver will disallow QEIA funds from being distributed to the Central Region MS #7. Based on 2010–11 QEIA funding projections, approximately $1,215,000 will be returned to the state.

Statutory language requires that this funding be redistributed to other QEIA programs. However, in the last two years, state fiscal policy directed the CDE to return it to the state general fund.

ATTACHMENT(S)

Attachment 1: Specific Waiver Request (5 pages) (Original waiver request is signed and on file in the SBE Office or the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	7	3	3

Local educational agency: **Los Angeles Unified School District on Behalf of Central Region Middle School #7**	Contact name and Title: Parker Hudnut – Executive Director, Innovation & Charter Schools Division	Contact person's e-mail address: Parker.hudnut@lausd.net
Address: 333 S. Beaudry Ave (City) Los Angeles (State) CA (ZIP) 90017		Phone (and extension, if necessary): 213-241-5104 Fax Number: 213-241-4710
Period of request: (month/day/year) From: 7/1/11 To: 6/30/14	Local board approval date: (Required) 11/16/10	Date of public hearing: (Required) 11/16/10

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **Section 52055.750.(a)** Circle One: (*EC*) or *CCR*
   Topic of the waiver: **QEIA Funds Follow the Child**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No _x_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): *10/26/10*

   Name of bargaining unit and representative(s) consulted: *United Teachers Los Angeles (UTLA), Gregg Solkovits*

   The position(s) of the bargaining unit(s): X Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _x_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: *District English Learner Advisory Committee (DELAC)*

   Date the committee/council reviewed the waiver request: *10/28/10*

   Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Section 52055.750.(a) Ensure that the fund received on behalf of funded schools are expended ~~on that school~~, except that during the first partial year of funding districts may use funding under this article for facilities necessary to meet the class size reduction requirements of this article, if all funds are spent on funded schools within the district.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

This waiver is requesting that QEIA funds follow the students to **Central Region Middle School #7** as 100% of these students are from **2 relieved QEIA schools, Carver Middle School and Los Angeles Academy Middle School.**

The LAUSD is in the midst of a very large building program and is opening several new schools each year. Approval of the waiver will allow the students at Central Region MS #7 to have the benefit of the QEIA program in 2011-2012 and beyond.

The state would not incur any additional costs as these students are currently attending QEIA funded schools. **See attached additional documentation**.

8. Demographic Information:
The Los Angeles Unified School District has a student population of 678, 441 and is located in an urban area in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Executive Director, Innovation & Charter Schools	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

A Proposal for Granting LAUSD a QEIA Funding Waiver
For Central Region Middle School #7 (Opening School Year 2011-2012)

BACKGROUND ON QEIA AND THE PUBLIC SCHOOL CHOICE RESOLUTION

The Quality Education Investment Act ("QEIA") was signed into law in 2006 to help schools serving a higher percentage of low income, minority and English language learners close the achievement gap. Four hundred and ninety-nine schools with Academic Performance Index scores in the bottom two deciles were selected to receive approximately $3 billion over seven years to implement proven intervention reforms such as class size reduction, increased teacher and principal training, and lower counselor-to-student ratios.

On August 25, 2009, the Los Angeles Unified School District's Board of Education voted and approved a resolution called Public School Choice (PSC) Resolution which supports the District's commitment to school transformation efforts and was designed to tap into innovative ideas and educational models that promote quality education for all students in the District. At the core of this resolution is the identification of low-performing schools within the District that meet specific criteria and a process by which the best instructional plans that meet unique school needs are selected. The resolution provides inclusion of newly built campuses, recognizing that the same process affords a singular opportunity to establish sound instructional plans for the new schools by considering the needs of future students and the surrounding community. Fundamentally, these new campuses relieve overcrowded schools and allow those schools to return to a traditional school calendar.

For the second round of PSC, 10 new schools scheduled to open for school year 2011-2012 have been included in the PSC process. One new school in particular, Central Region Middle School #7, with a projected operating capacity of 1,350, will relieve two multi-track schools that are QEIA funding recipients, Carver MS and Los Angeles Academy MS. Therefore, all students attending CR MS #7 would be students covered by QEIA funding at Carver MS and Los Angeles MS. Both schools have close to 90% of their student population coming from economically disadvantaged families and almost half of their students are English learners. These 2 schools also serve a significant number of students with disabilities and special needs. This same population will be the incoming students for Central Region MS #7.

Table 1. Carver MS and Los Angeles Academy School Profiles

	Carver MS	Los Angeles Academy MS
	2008-09	2008-09
Enrollment	1963	2278
% Hispanic	93	93
% Other	7	7
% Gifted	6	9
% English Learners	45	41
% Free & Reduced Lunch	89	89
% Special Education	13	11

The intent of the QEIA legislation is to improve the quality of academic instruction and academic achievement in schools with high poverty students and complex educational needs. Even as these students transfer to the new school, their socio-economic background remains largely unchanged and the scaffolding for their academic instruction needs to be sustained. It is imperative for Carver MS and Los Angeles Academy MS students transferring to the new Central Region MS #7 to continue benefitting from the resources provided by the QEIA program.

Currently, QEIA does not allow dollars to be transferred from one school to another without a waiver. The Los Angeles Unified School District is requesting a waiver to allow the funds to flow to the Carver MS and Los Angeles Academy MS students transferring to Central Region MS #7. Denying this waiver will summarily penalize the very same community the legislation seeks to serve. Overcrowding has long been a problem for LAUSD schools, with the new campus opening there is an opportunity to provide quality instruction and improve academic achievement for these low-performing schools. The chances for success are even better than before with the inclusion of this new campus in the Public School Choice Resolution, a rigorous selection process for the best instructional plan that will meet the unique needs of the students served by the new school. This is in complete alignment with the legislation's intent to "develop exemplary school districts and school practices"; practices that break new ground in fostering innovative learning experiences and attract highly qualified administrators and teachers who are committed to the school. We need to sustain this District endeavor through continued funding of QEIA students; we firmly believe that these students should not be eliminated from the program simply because they have transferred to a new school.

We are aware that in previous QEIA waiver requests, CDE staff has raised legitimate concerns regarding the waiver. In light of those concerns, we wanted to respond to each applicable one in turn.

Distributing funds from current QEIA funded schools to the new campus will weaken the ability to implement program requirements.

The Los Angeles Unified School District continues to have some of the most overcrowded schools in the state. We have committed to ensuring that these overcrowded schools, some still operating on a year-round calendar, be given the capacity to move back to a traditional calendar. The past years have seen an incredible effort directed towards construction of new campuses in some of the most underserved areas to address reduction in student-teacher ratios, allowing teachers to provide personalized learning for their students. If we persist in packing these students in crowded classrooms and campuses we will only continue to do a disservice to their education. The District fundamentally believes that breaking up large, overcrowded, struggling schools into smaller, personalized environments will considerably improve student outcomes. Maintaining QEIA funding for these students allows the District to sustain the gains they have made in the past 2 years. Moreover, the new campus will receive 100% of QEIA funded students from the 2 relieved schools. Any QEIA allocation to Central Region MS #7 will be based on the corresponding number of students coming from Carver MS and Los Angeles Academy.

Another underlying concern is the capping of funding for both the new and originating school considering that program requirements are resources intensive. We recognize that sufficient per pupil resources are needed in order for these schools to meet the QEIA program requirements. As of 2010-2011, Carver MS is using the District's Per Pupil Funding model which allows the school to have more flexibility with its discretionary funding sources. Essentially, this enables the school to have more purchasing power and to make budget decisions that are driven by direct school instructional needs. LAUSD is also committed to putting additional resources in place to ensure these students and schools have the capacity to meet their targets.

Progress on program requirements cannot be adequately assessed because they must approximate baseline data for two of the seven requirements.

The two requirements of concern are the baseline class size and baseline teacher experience.

As we have noted in previous QEIA waiver requests, baseline data projections for class size reduction were established through either the 2005-06 or 2006-07 CBEDS for the original QEIA schools. The

new school's class size will be composed of 100% QEIA students. The class size reduction implementation plan for both relieved schools is similar with both schools meeting their 2008-09 targets satisfactorily. The District will use a weighted average for these schools in calculating what the class size should be at the new school receiving QEIA students.

With regards to baseline teacher experience, the District has established a Teacher Experience Index (TEI) of 95% for all LAUSD schools, thereby meeting the goal set by the state. According to the End of Year Report submitted by the Los Angeles County Office of Education (LACOE) to the California Department of Education (CDE), all LAUSD QEIA schools met the TEI; therefore the District believes this should no longer be an issue. Furthermore, this will continue to be monitored for all QEIA schools by the Human Resources Department to ensure they continue to meet TEI requirements.

Additionally, the District commits to its continued work with LACOE to ensure appropriate accountability under QEIA. As the program requires, accountability and implementation plans are incorporated into the schools' Single Plans, in order to maintain a cohesive and comprehensive alignment of all resources to meet similar goals from other programs. QEIA funds are critical to reaching those goals.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item W-26

ITEM #W-26

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

☒ **General Waiver**

SUBJECT	
Request by **Los Angeles Unified School District** to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from **San Fernando Middle School** and **Lincoln High School** to follow identified students who will be transferring to **San Fernando Institute of Applied Learning** and **Leadership in Entertainment and Media Arts** to ensure that they will not lose the benefits of the Quality Education Investment Act. Waiver Number: 71-10-2010	☒ **Action** ☐ **Consent**

RECOMMENDATION

☐ **Approval** ☐ **Approval with conditions** ☒ **Denial**

The California Department of Education (CDE) recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils within the context of California *Education Code (EC)* Section 33051(a)(1).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

From March 2009 through the May 2011 State Board of Education (SBE) Meeting, the CDE Waiver Office has presented 27 waivers related to the Quality Education Investment Act (QEIA) to the SBE. Of that number:

- 22 were related to QEIA class size reduction requirements: 18 were approved with conditions and 4 were denied.
- 5 were related to adding new schools to the QEIA program: 2 were approved and 3 were approved with conditions.

The SBE approved two similar funds expenditure requirement waivers requested by the Los Angeles Unified School District (USD) for Roosevelt High School (HS) at its March 2010 meeting. The first waiver allowed the QEIA funding to follow students transferring from the QEIA-funded Roosevelt HS to new schools on the same Roosevelt HS campus; the second waiver allowed the QEIA money from Roosevelt HS to follow the students to Mendez Learning Center through 2014.

SUMMARY OF PREVIOUS (Cont.)

The SBE approved a waiver requested by the Los Angeles USD for Alain LeRoy Locke Charter High School (Locke Charter HS) at the May 2009 SBE meeting. That waiver allowed QEIA funding to follow students transferring from the QEIA-funded Locke Charter HS to new schools on the same Locke Charter HS campus through 2014.

SUMMARY OF KEY ISSUES

The SBE also approved a request concerning 16 Los Angeles USD schools in January 2009, with no action taken, and for a second time at its March 2009 meeting. In March, a motion to deny the waiver failed and the waiver was automatically granted under *EC* 33052 because the SBE did not take formal action on the waiver within two meetings. This waiver was renewed by the SBE in March of 2010, and is now applicable through 2014.

San Fernando Middle School (MS) and Lincoln High School (HS) were chosen to participate in the QEIA program in 2006–07 with a population of approximately 1,659 students and 2,760 students, respectively. The students have been in the program since that time. This waiver is not requesting a change in the class size targets. However, the district states that it is meeting its targets satisfactorily.

The Los Angeles USD has stated that in the 2010–11 school year, it opened two small schools: (1) San Fernando Institute of Applied Learning and (2) Leadership in Entertainment and Media Arts. The Los Angeles USD is requesting that QEIA funds be allowed to follow approximately 400 students transferring from San Fernando MS to San Fernando Institute of Applied Learning, and approximately 430 students transferring from Lincoln HS to Leadership in Entertainment and Media Arts. The Los Angeles USD states that all students transferring to either San Fernando Institute of Applied Learning or Leadership in Entertainment and Media Arts are covered by QEIA funding at San Fernando MS and Lincoln HS.

The Department recommends denial of this waiver request because its approval would not adequately address the educational needs of pupils within the context of *EC* Section 33051(a)(1).

Quality Education Investment Act program requirements preclude new schools from participating in the program primarily due to the fact that a large number of schools that originally applied for participation had been excluded from the program due to funding limitations.

Additionally, the program has specific timelines for participation, and adding schools at this late date compacts that timeline and limits the ability of the new schools to demonstrate their success in the program. Schools that do not meet program requirements stand to lose future QEIA funding, so these new schools would only benefit from QEIA participation for a short time if they are unable to successfully implement the program within the truncated timeline.

SUMMARY OF KEY ISSUES (Cont.)

Further, due to the fact that QEIA funding is limited, approval of this waiver request would require that the state limit funding for San Fernando MS, Lincoln HS, San Fernando Institute of Applied Learning, and Leadership in Entertainment and Media Arts to the level that has been currently provided to San Fernando MS and Lincoln HS. Unanticipated growth at the schools could encroach on the program's capacity to meet its statewide funding requirements.

Demographic Information: Los Angeles USD has a student population of 678,441 and is located in an urban area in Los Angeles County.

Authority for Waiver: *EC* Section 33050

Period of request: July 1, 2011, to June 30, 2014

Local board approval date(s): November 16, 2010
Public hearing held on date(s): November 16, 2010

Bargaining unit(s) consulted on date(s): October 26, 2010

Name of bargaining unit/representative(s) consulted: United Teachers Los Angeles (UTLA), Gregg Solkovits

Position of bargaining unit(s) (choose only one):
☒ Neutral ☐ Support ☐ Oppose:

Comments (if appropriate): None

Public hearing advertised by (choose one or more):
☒ posting in a newspaper ☐ posting at each school ☐ other (specify)

Advisory committee(s) consulted: District English Learner Advisory Committee

Objections raised (choose one): ☒ None ☐ Objections are as follows:

Date(s) consulted: October 28, 2010

FISCAL ANALYSIS (AS APPROPRIATE)

Denial of this waiver will disallow QEIA funds from being distributed to the San Fernando Institute of Applied Learning School or to Leadership in Entertainment and Media Arts. Based on 2010–11 QEIA funding projections, approximately $790,000 will be returned to the state.

Statutory language requires that this funding be redistributed to other QEIA programs. However, in the last two years, the unused funds have reverted to the general fund.

ATTACHMENT(S)

Attachment 1: General Waiver Request (3 pages) (Original waiver request is signed and on file in the SBE Office or in the Waiver Office.)

CALIFORNIA DEPARTMENT OF EDUCATION

GENERAL WAIVER REQUEST

GW-1 (Rev. 10-2-09) http://www.cde.ca.gov/re/lr/wr/

First Time Waiver: X
Renewal Waiver: ___

Send Original plus one copy to:
Waiver Office, California Department of Education
1430 N Street, Suite 5602
Sacramento, CA 95814

Send Electronic copy in **Word** and back-up material to: waiver@cde.ca.gov

CD CODE						
1	9	6	4	7	3	3

Local educational agency:	Contact name and Title:	Contact person's e-mail address:
Los Angeles Unified School District on Behalf of San Fernando Institute of Applied Media, and Leadership in Entertainment & Media Arts	Parker Hudnut – Executive Director, Innovation & Charter Schools Division	Parker.hudnut@lausd.net

Address:	(City)	(State)	(ZIP)	Phone (and extension, if necessary): 213-241-5104
333 S. Beaudry Ave	Los Angeles	CA	90017	Fax Number: 213-241-4710

Period of request: (month/day/year)	Local board approval date: (Required)	Date of public hearing: (Required)
From: 7/1/11 To: 6/30/14	11/16/10	11/16/10

LEGAL CRITERIA

1. Under the general waiver authority of *Education Code* 33050-33053, the particular *Education Code* or *California Code of Regulations* section(s) to be waived (number): **Section 52055.750.(a)** One: *EC* or *CCR*

   Topic of the waiver: **QEIA Funds Follow the Child**

2. If this is a renewal of a previously approved waiver, please list Waiver Number: _____ and date of SBE Approval_____
   Renewals of waivers must be submitted two months before the active waiver expires.

3. Collective bargaining unit information. Does the district have any employee bargaining units? __ No x_ Yes If yes, please complete required information below:

   Bargaining unit(s) consulted on date(s): *10/26/10*

   Name of bargaining unit and representative(s) consulted: *United Teachers Los Angeles (UTLA), Gregg Solkovits*

   The position(s) of the bargaining unit(s): X Neutral __ Support __ Oppose (*Please specify why*)

   Comments (if appropriate):

4. Public hearing requirement: A public hearing is not simply a board meeting, but a properly noticed public hearing held during a board meeting at which time the public may testify on the waiver proposal. Distribution of local board agenda does not constitute notice of a public hearing. Acceptable ways to advertise include: (1) print a notice that includes the time, date, location, and subject of the hearing in a newspaper of general circulation; or (2) in small school districts, post a formal notice at each school and three public places in the district.

   How was the required public hearing advertised?

   _x_ Notice in a newspaper ___ Notice posted at each school ___ Other: *(Please specify)*

5. Advisory committee or school site councils. Please identify the council(s) or committee that reviewed this waiver: *District English Learner Advisory Committee*

   Date the committee/council reviewed the waiver request: *10/28/10*

   Were there any objection(s)? No X Yes ___ (*If there were objections please specify)*

CALIFORNIA DEPARTMENT OF EDUCATION
GENERAL WAIVER REQUEST
GW-1 (10-2-09)

6. *Education Code* or *California Code of Regulations* section to be waived**.** If the request is to waive a portion of a section, type the text of the pertinent sentence of the law, or those exact phrases requested to be waived (use a **strike out key**).

Section 52055.750.(a) Ensure that the fund received on behalf of funded schools are expended ~~on that school~~, except that during the first partial year of funding districts may use funding under this article for facilities necessary to meet the class size reduction requirements of this article, if all funds are spent on funded schools within the district.

7. Desired outcome/rationale. Describe briefly the circumstances that brought about the request and why the waiver is necessary to achieve improved student performance and/or streamline or facilitate local agency operations. If more space is needed, please attach additional pages.

This waiver is to request that funds from **2 QEIA schools, San Fernando MS and Lincoln HS**, follow the students to two small autonomous schools that opened in 2010-2011, **San Fernando Institute of Applied Media (SFIAM) and Leadership in Entertainment & Media Arts (LEMA),** respectively. The two small schools continue to serve the same student body and the same attendance area of the 2 QEIA schools prior to 2008-09. These new small schools intend to apply for their own CDS code on 2011-2012, without a waiver request the students who transfer to these school will lose the benefit of the QEIA program in which the funds were originally intended for.

Expected Outcome: QEIA funding will be allocated to the small schools with new CDS codes and allow students to continue to benefit from the program. The state would not incur any additional costs as these students are currently attending QEIA funded schools.

See attached additional information

8. Demographic Information:
The Los Angeles Unified School District has a student population of 678, 441 and is located in an urban area in Los Angeles County.

Is this waiver associated with an apportionment related audit penalty? (per *EC* 41344) No ☒ Yes ☐
(If yes, please attach explanation or copy of audit finding)

Has there been a Categorical Program Monitoring (CPM) finding on this issue? No ☒ Yes ☐
(If yes, please attach explanation or copy of *CPM* finding)

District or County Certification – *I hereby certify that the information provided on this application is correct and complete*.

Signature of Superintendent or Designee:	Title: Executive Director, Innovation & Charter Schools	Date:
FOR CALIFORNIA DEPARTMENT OF EDUCATION USE ONLY		
Staff Name (*type or print*):	Staff Signature:	Date:
Unit Manager (*type or print*):	Unit Manager Signature:	Date:
Division Director (*type or print*):	Division Director Signature:	Date:
Deputy (*type or print*):	Deputy Signature:	Date:

A Proposal for Granting LAUSD a QEIA Funding Waiver
For 2 New Small Schools (#2)

BACKGROUND

The Los Angeles Unified School District (LAUSD) is requesting a waiver that would allow the QEIA funding to continue for students who are transferring to 2 new small schools.

San Fernando Institute of Applied Media (SFIAM) and **Leadership in Entertainment & Media Arts (LEMA)** are 2 new small schools serving the same student population as **San Fernando MS and Lincoln HS (Both QEIA Schools), respectively.** Both new schools participated in the first round of the District's Public School Choice Resolution, an initiative voted on by the Los Angeles Unified School District's Board of Education that calls for innovative and strong instructional plans that will address the unique instructional needs of the students in the school's community. The resolution seeks to support transformation efforts that are grounded in research, strong parent-community engagement, and clear accountabilities. It also follows the mandate set in place by No Child Left Behind (NCLB), which requires LEAs to take dramatic action to improve chronically underperforming schools.

We are requesting a waiver to allow funds to follow approximately 400 students transferring from San Fernando MS to San Fernando Institute of Applied Media (SFIAM) and for 430 students transferring from Lincoln HS to Leadership in Entertainment & Media Arts (LEMA). SFIAM and LEMA opened in 2010-2011, serving 100% of the same population of students in San Fernando MS and Lincoln HS. These schools plan to apply for their own CDS codes in the spring of 2011. Both schools serve a large number of students requiring academic support in ELA proficiency and around 90% of their population coming from socio-economically disadvantaged families. These students deserve choices in opportunities for quality education since their educational needs are complex. With a smaller, personalized learning environment their chances for success increase as teachers are better able to respond to their needs. Moreover, we believe that this is in line with the intent of QEIA legislation to improve the quality of academic instruction and academic achievement in schools serving high poverty students.

QEIA program requirements will be maintained for these schools using baseline data from the originating schools in order to measure annual benchmark goals. Since both schools will be composed of the same QEIA students, baseline determinations for class size reduction will be similar to the originating school. With regards to baseline teacher experience, the District has established a Teacher Experience Index (TEI) of 95% for all LAUSD schools, thereby meeting the goal set by the state. According to the End of Year Report submitted by the Los Angeles County Office of Education (LACOE) to the California Department of Education (CDE), all LAUSD QEIA schools met the TEI; therefore the District believes this should no longer be an issue. Furthermore, this will continue to be monitored for all QEIA schools by the Human Resources Department to ensure they continue to meet TEI requirements.

The state would not incur any additional costs as students come from the same attendance boundaries. A reduction in QEIA funding from the originating school is offset by the flow of funds to the new school receiving those same students. Additionally, these small schools follow a school model utilizing a personalized learning environment that keeps enrollment small.

These schools will continue to incorporate their accountability and implementation plans into their Single Plans. Furthermore, the District will ensure accountability for these schools in partnership with LACOE.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 8

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Assignment of Numbers for Charter School Petitions.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) 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. CDE staff presents this routine request for assignment of charter numbers as a standard action item.

Since the charter school law was enacted in 1992, the SBE has assigned numbers to 1323 charter schools, including some approved by the SBE after denial by local educational agencies. Separate from that numbering system, eight all-charter districts which currently serve a total of 18 school sites, have been jointly approved by the State Superintendent of Public Instruction and the SBE.

SUMMARY OF KEY ISSUES

California law allows for the establishment of charter schools. A charter school is typically 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 provisions of its charter, but is exempt from many statutes and regulations governing school districts.

California *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 stays within a statutory cap on the total number of charter schools authorized to operate. The statutory cap for fiscal year 2010–11 is 1,450. The statutory cap is not subject to waiver.

SUMMARY OF KEY ISSUES (Cont.)

The charter schools listed in Attachment 1 were recently approved by local boards of education as noted. Copies of the charter petitions are on file in the Charter Schools Division.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to the state resulting from the assignment of numbers to recently authorized charter schools.

ATTACHMENT(S)

Attachment 1: July 2011 State Board of Education Meeting Assignment of Numbers for Charter School Petitions (3 Pages).

Attachment 2: California *Education Code* Section 47602 (1 Page)

July 2011 State Board of Education Meeting

Assignment of Numbers for Charter School Petitions

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1324	Oxford Preparatory Academy – South Orange County	Orange	Capistrano Unified School District	Sue Roche 8562 C Street Chino, CA 91710
1325	Communitas Charter High School	Santa Clara	Santa Clara County Office of Education	Stephen Fiss 1226 Glenn Avenue San Jose, CA 95125
1326	Galileo Charter School	San Diego	Mountain Empire Unified School District	Belinda Gallo 815 Mission, Suite 203 Oceanside, CA 92054
1327	Southern California Online Academy	Riverside	Lake Elsinore Unified School District	Veronica Godinez 1405 Education Way Lake Elsinore, CA 92530
1328	Great Valley Academy Manteca	San Joaquin	New Jerusalem Elementary School District	Eldon Rosenow 486 Button Avenue Manteca, CA 95336
1329	Loma Vista Charter	Tulare	Lindsay Unified School District	Dennis Doane 467 East Honolulu Street Lindsay, CA 93247
1330	Aspire Slauson Academy	Los Angeles	Los Angeles Unified School District	Roberta Benjamin 123 West 59th Street Los Angeles, CA 90003
1331	Aspire Juanita Tate Academy Charter School	Los Angeles	Los Angeles Unified School District	Roberta Benjamin 123 West 59th Street Los Angeles, CA 90003
1332	Aspire Inskeep Academy Charter School	Los Angeles	Los Angeles Unified School District	Roberta Benjamin 123 West 59th Street Los Angeles, CA 90003
1333	Los Angeles Leadership Primary Academy	Los Angeles	Los Angeles Unified School District	Roger Lowenstein 2670 Griffin Avenue Los Angeles, CA 90031
1334	Camino Nuevo Charter Academy #4	Los Angeles	Los Angeles Unified School District	Ana Ponce 1018 Mohawk Street Los Angeles, CA 90026

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1335	Ambassador Phillip V. Sanchez Public Charter	Fresno	Raisin City Elementary School District	Gloria Fortine 5659 East Kings Canyon Road, Suite 101 Fresno, CA 93727
1336	Sierra Academy of Expeditionary Learning	Nevada	Nevada Joint Union High School District	Brian Martinez 11645 Ridge Road Grass Valley, CA 95945
1337	California Pacific Charter School of Kern	Kern	Semitropic Elementary School District	Alexa Greenland 840 Apollo Avenue, Suite 222 El Segundo, CA 92117
1338	Sacramento Valley Charter School	Yolo	Washington Unified School District	Narinder Dhaliwal 2301 Evergreen Avenue West Sacramento, CA 95691
1339	Chicago Park Community Charter School	Nevada	Chicago Park Elementary School District	Anne Paget 15725 Mt. Olive Road Grass Valley, CA 95945
1340	J.P. Western Charter High School	San Diego	Mountain Empire Unified School District	Gary Juleen PO Box 925 Alpine, CA 91903
1341	Minarets Charter High School	Madera	Chawanakee Unified School District	Mike Niehoff 45077 Road 200 O'Neals, CA 93645
1342	Animo Charter High School #1	Los Angeles	Los Angeles Unified School District	Erica Gonzalez 2265 East 103rd Street Los Angeles, CA 90002
1343	Alliance College Ready Academy High School #17	Los Angeles	Los Angeles Unified School District	Judy Burton 1940 South Figueroa Street Los Angeles, CA 90007
1344	Beckford Charter	Los Angeles	Los Angeles Unified School District	Shelly Brower 19130 Tulsa Street Northridge, CA 91326
1345	Calabash Charter Academy	Los Angeles	Los Angeles Unified School District	Esther Gillis 23055 Eugene Street Woodland Hills, CA 91364

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1346	Hale Charter Academy	Los Angeles	Los Angeles Unified School District	Neil Siegel 23830 Califa Street Woodland Hills, CA 91367
1347	Pomelo Community Charter	Los Angeles	Los Angeles Unified School District	Marsha Gardner 7633 March Avenue West Hills, CA 91304
1348	Sherman Oaks Elementary Charter	Los Angeles	Los Angeles Unified School District	Kerry Harr 14755 Greenleaf Street Sherman Oaks, CA 91403
1349	Welby Way Charter Elementary	Los Angeles	Los Angeles Unified School District	J. Jennifer Yoo 23456 Welby Way West Hills, CA 91307
1350	Walden Academy	Glenn	Glenn County Office of Education	Kelly Lawler PO Box 984 Willows, CA 95988
1351	Guajome Learning Centers	San Diego	Vista Unified School District	Bob Hampton 2000 North Santa Fe Avenue Vista, CA 92083
1352	Del Vista Math and Science Academy	Kern	Delano Union Elementary School District	Mark Luque 710 Quincy Street Delano, CA 93215
1353	Celerity Sirius Charter School	Los Angeles	Los Angeles County Office of Education	Vielka McFarlane 3401 West Jefferson Boulevard Los Angeles, CA 90018
1354	Early College Academy for Leaders and Scholars (ECALS)	Los Angeles	Los Angeles Unified School District	Jacqueline Elliot 111 North First Street, Suite 100 Burbank, CA 91502

July 2011 State Board of Education Meeting

California *Education Code* Section 47602

47602. (a) (1) In the 1998-99 school year, the maximum total number of charter schools authorized to operate in this state shall be 250. In the 1999-2000 school year, and in each successive school year thereafter, an additional 100 charter schools are authorized to operate in this state each successive school year. For the purposes of implementing this section, the State Board of Education shall assign a number to each charter petition that it grants pursuant to subdivision (j) of Section 47605 or Section 47605.8 and to each charter notice it receives pursuant to this part, based on the chronological order in which the notice is received. Each number assigned by the state board on or after January 1, 2003, shall correspond to a single petition that identifies a charter school that will operate within the geographic and site limitations of this part. The State Board of Education shall develop a numbering system for charter schools that identifies each school associated with a charter and that operates within the existing limit on the number of charter schools that can be approved each year. For purposes of this section, sites that share educational programs and serve similar pupil populations may not be counted as separate schools. Sites that do not share a common educational program shall be considered separate schools for purposes of this section. The limits contained in this paragraph may not be waived by the State Board of Education pursuant to Section 33050 or any other provision of law.

(2) By July 1, 2003, the Legislative Analyst shall, pursuant to the criteria in Section 47616.5, report to the Legislature on the effectiveness of the charter school approach authorized under this part and recommend whether to expand or reduce the annual rate of growth of charter schools authorized pursuant to this section.

(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school. No charter school shall receive any public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. The State Board of Education shall adopt regulations to implement this section.

ITEM ADDENDUM

DATE: July 8, 2011

TO: MEMBERS, State Board of Education

FROM: TOM TORLAKSON, State Superintendent of Public Instruction

SUBJECT: Item 08 – Assignment of Numbers for Charter School Petitions.

Summary of Key Issues

Below are additional requests for charter school numbers:

Number	Charter Name	County	Authorizing Entity	Charter School Contact
1355	Urban Corps of San Diego County Charter School	Mono	Mono County Office of Education	Dan Thomas 3127 Jefferson Street San Diego, CA 92110
1356	College Ready Academy High School #18	Los Angeles	Los Angeles Unified School District	Judy Burton 1940 South Figueroa Street Los Angeles, CA 90007
1357	Rocketship Six Elementary School	Santa Clara	Santa Clara County Office of Education	Adele McCarthy-Beauvais 420 Florence Street Palo Alto, CA 94301
1358	Rocketship Seven Elementary School	Santa Clara	Santa Clara County Office of Education	Adele McCarthy-Beauvais 420 Florence Street Palo Alto, CA 94301
1359	Rocketship Eight Elementary School	Santa Clara	Santa Clara County Office of Education	Adele McCarthy-Beauvais 420 Florence Street Palo Alto, CA 94301
1360	TEAM Charter School	San Joaquin	Stockton Unified School District	Debra Eison 810 North Hunter Stockton, CA 95202

Attachment(s)

None

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 9

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Approval of 2010–11 Consolidated Applications.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the 2010–11 Consolidated Applications (ConApps) submitted by local educational agencies (LEAs) in Attachment 1.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

To date, the SBE has approved 2010–2011 ConApps for 1,511 LEAs. Attachment 1 represents the sixth set of ConApps for the 2010–11 fiscal year presented to the SBE for approval.

SUMMARY OF KEY ISSUES

Each year, the CDE, in compliance with *California Code of Regulations, Title 5*, Section 3920, recommends that the SBE approve applications for funding Consolidated Categorical Aid Programs submitted by LEAs. Prior to receiving funding, the LEA must also have a SBE-approved LEA Plan that satisfies the SBE's and CDE's criteria for utilizing federal and state categorical funds.

Approximately $2.9 billion of state and federal funding is distributed annually through the ConApp process. The 2010–11 ConApp consists of seven federal programs and only one state-funded program. The state funding source is Economic Impact Aid (which is used for State Compensatory Education and/or English learners). The federal funding sources include:

- Title I, Part A Basic Grant (Low Income);
- Title I, Part A (Neglected);
- Title I, Part D (Delinquent);
- Title II, Part A (Teacher Quality);
- Title III, Part A (Immigrant);

SUMMARY OF KEY ISSUES (Cont.)

- Title III, Part A (Limited English Proficient Students); and
- Title VI, Part B (Rural, Low-Income).

The CDE provides the SBE with two levels of approval recommendations. Regular approval is recommended when an LEA has submitted a correct and complete ConApp, Part I, and has no compliance issues or is making satisfactory progress toward resolving one or two noncompliant issues that are less than 365 days. Conditional approval is recommended when an LEA has submitted a correct and complete ConApp, Part I, but has one or more noncompliant issues that is/are unresolved for over 365 days. Conditional approval by the SBE provides authority to the LEA to spend its categorical funds under the condition that it will resolve or make significant progress toward resolving noncompliant issues. In extreme cases, conditional approval may include the withholding of funds.

Attachment 1 identifies the LEAs that have no outstanding noncompliant issues or are making satisfactory progress toward resolving one or two noncompliant issues that is/are unresolved for less than 365 days. The CDE recommends regular approval of the 2010–11 ConApp for these 24 LEAs. Attachment 1 also includes ConApp entitlement figures from school year 2009–10 because the figures for 2010–11 have not yet been determined. Fiscal data are absent if an LEA is new or is applying for direct funding for the first time.

FISCAL ANALYSIS (AS APPROPRIATE)

The CDE provides resources to track the SBE approval status of the ConApps for more than 1,500 LEAs. The cost to track the noncompliant status of LEAs related to programs within the ConApp is covered through a cost pool of federal funds and Economic Impact Aid funds. CDE staff communicates with LEA staff on an ongoing basis to determine the evidence needed to resolve issues, reviews the evidence provided by LEA staff, and maintains a tracking system to document the resolution process.

ATTACHMENT(S)

Attachment 1: Consolidated Applications (ConApp) List (2010–11) - Regular Approvals (2 Pages)

Consolidated Applications (ConApp) List (2010–11) – Regular Approvals

The following local educational agencies (LEAs) have submitted a correct and complete ConApp, Part I, and have no compliance issues or are making satisfactory progress toward resolving one or two noncompliant issues that are less than 365 days. The California Department of Education recommends regular approval of these applications.

CD Code	School Code	Local Educational Agency Name	Total 2009–10 ConApp Entitlement	2009-10 Total Entitlement Per Student	Total 2009–10 Title I Entitlement	2009–10 Entitlement Per Free and Reduced Lunch Student	2009–10* Percent At or Above Proficiency - Language Arts	2009–10* Percent At or Above Proficiency - Math
5776695	0121806	California College, Career & Technical Education	$0	$0	$0	$0		
1965169	0119636	Da Vinci Design	$0	$0	$0	$0		
1965169	0119016	Da Vinci Science	$0	$0	$0	$0		
1964733	0115295	Fernando Pullum Performing Arts High	$23,724	$169	$21,298	$273	25.6	16.3
1964733	0117952	Frederick Douglass Academy Elementary	$33,342	$166	$31,260	$202	49.0	57.4
1964733	0112557	Frederick Douglass Academy High	$41,526	$142	$36,843	$367	36.1	25.0
1964733	0112433	Frederick Douglass Academy Middle	$77,287	$280	$72,043	$396	43.3	36.8
3467447	0114983	Golden Valley Charter School of Sacramento	$0	$0	$0	$0	55.6	57.4
1964634	0120303	ICEF Inglewood Elementary Charter Academy	$70,138	$351	$65,618	$523	47.0	52.4
1964634	0120311	ICEF Inglewood Middle Charter Academy	$59,638	$459	$55,825	$655	50.0	38.2
1964733	0117937	ICEF Vista Elementary Academy	$97,629	$338	$91,722	$410	50.0	59.4
1964733	0115287	ICEF Vista Middle Academy	$54,495	$293	$51,152	$439	39.1	34.6
1964733	0122606	Lakeview Charter High	$0	$0	$0	$0		
1964733	0117945	Lou Dantzler Preparatory Charter Elementary	$48,023	$336	$44,430	$400	49.0	57.4
1964733	0112540	Lou Dantzler Preparatory Charter High	$43,479	$151	$39,168	$327	38.7	28.2
1964733	0112227	Lou Dantzler Preparatory Charter Middle	$64,452	$200	$59,256	$324	52.9	32.6

CD Code	School Code	Local Educational Agency Name	Total 2009–10 ConApp Entitlement	2009-10 Total Entitlement Per Student	Total 2009–10 Title I Entitlement	2009–10 Entitlement Per Free and Reduced Lunch Student	2009–10* Percent At or Above Proficiency - Language Arts	2009–10* Percent At or Above Proficiency - Math
0761796	6118368	Manzanita Middle	$249	$2	$0	$2	45.3	19.6
0161259	6117972	North Oakland Community Charter	$257	$1	$0	$8	67.8	77.5
3467439	0101295	Sol Aureus College Preparatory	$40,579	$501	$38,076	$624	37.7	40.3
1964733	0115261	Thurgood Marshall Charter Middle	$75,555	$288	$69,198	$370	32.4	25.4
1964733	0122598	Triumph Charter High	$0	$0	$0	$0		
1964733	6117048	View Park Preparatory Accelerated Charter	$91,995	$221	$84,381	$411	66.3	65.9
1964733	6121081	View Park Preparatory Accelerated Charter Middle	$51,358	$161	$46,142	$247	57.7	58.7
1964733	0101196	View Park Preparatory Accelerated High	$62,333	$160	$55,890	$344	42.1	46.3

* The 2009–10 targets for elementary and middle schools are 56.8 percent for Language Arts and 58.0 percent for Math. The 2009–10 targets for high schools are 55.6 percent for Language Arts and 54.8 percent for Math.

Total Number of LEAs in the report: 24
Total ConApp entitlement funds for districts receiving regular approval: $936,059

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 10

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
State Instructional Materials Fund – Approve Tentative Encumbrances and Allocations for Fiscal Year 2011-12	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve a resolution for the State Instructional Materials Fund Tentative Encumbrances and Allocations for fiscal year 2011-12 (Attachment 2), with the amounts subject to change based on the final amount appropriated in the Budget Act of 2011, or related legislation for instructional materials.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

This agenda item is annually submitted to and approved by the SBE.

SUMMARY OF KEY ISSUES

In accordance with California *Education Code* Section 60242, the SBE must encumber funds from the State Instructional Materials Fund which is administered by the CDE. The information attached describes the allocation formulas and requirements (Attachment 1), and provides a resolution for the tentative determination of encumbrances and allocations for the State Instructional Materials Fund for fiscal year 2011-12 (Attachment 2).

FISCAL ANALYSIS (AS APPROPRIATE)

SBE approval of the 2011-12 State Instructional Materials Fund encumbrances and allocations authorizes the apportionment of an estimated $333,644,000, subject to the final amount appropriated in the Budget Act of 2011 or related legislation. CDE recommends that funds be encumbered for the purchase of accessible instructional materials, the cost of warehousing and transporting materials, and the balance for allocations to local educational agencies for their regular instructional materials needs.

ATTACHMENT(S)

Attachment 1: Tentative Determination of Encumbrances and Allocations for the State Instructional Materials Fund for Fiscal Year 2011-12 (2 pages)

Attachment 2: State Board of Education Resolution for Fiscal Year 2011-12 (1 page)

Tentative Determination of Encumbrances and Allocations for the State Instructional Materials Fund for Fiscal Year 2011-12

State funding for the acquisition of instructional materials is provided by an annual appropriation from the General Fund for transfer to the State Instructional Materials Fund. For fiscal year 2011-12, the proposed budget (Senate Bill 69) provides $333,644,000 for this purpose.

To allocate the instructional materials funds, the following is presented to the State Board of Education (SBE) for consideration and approval:

Accessible Instructional Materials – California *Education Code* Section 60240(c)(1)

The SBE is to encumber part of the State Instructional Materials Fund to pay for the cost of accessible instructional materials (such as Braille and large print) pursuant to *EC* sections 60312 and 60313 to accommodate pupils who are visually impaired or have other disabilities and are unable to access the general curriculum. The estimated cost for this purpose in 2011-12 is $750,000.

Reserve to Pay Cost to Replace Materials Lost in Disasters – California *Education Code* Section 60240(c)(2)

The SBE is to encumber part of the State Instructional Materials Fund, in an amount up to $200,000 each year, to pay for the cost of replacing instructional materials that are lost or destroyed by reason of fire, theft, natural disaster, or vandalism. The SBE's current policy is to keep a reserve of $50,000 in the disaster fund, and limit each school district's claim to a maximum of $5,000 or a district's insurance deductible amount, whichever is less. An additional set aside is not needed for fiscal year 2011-12.

Warehousing and Transporting Instructional Materials-California *Education Code* Section 60240(c)(3)

The SBE may set aside part of the State Instructional Materials Fund for the costs of warehousing and transporting instructional materials it has acquired. The estimated cost for this purpose in 2011-12 is $245,000.

Instructional Materials Loans – California *Education Code* Section 60240(d)

The CDE may expend up to $5 million from the State Instructional Materials Fund, upon request of a county superintendent and notification to the SBE, to acquire materials for school districts that were found by their county superintendents to have insufficient textbooks or instructional materials. Such funds are to be repaid by the school district.

Funding for this purpose, $5 million, was appropriated to the State Instructional Materials Fund by Section 23(a)(1) of Senate Bill 550 (Chapter 900, Statutes of 2004). All of these funds remain available without regard to fiscal year.

Establishing a Per Local Educational Agency Allowance – California *Education Code* Section 60242(a)

The SBE is to encumber funds for the purpose of establishing an allowance for each school district, county office of education, state special school, and all-charter school district that is funded through the revenue limit (local educational agency - LEA). The estimated amount of funds available for the allowance after funds are encumbered for accessible instructional materials and warehousing and transporting instructional materials is $332,649,000.

Pursuant to *EC* Section 42605(b)(1), each LEA's allowance for fiscal year 2011-12 is to be based on its proportionate share of the Instructional Material Realignment Program funds allocated in 2008-09. Pursuant to *EC* Section 42605(a)(1), these funds, as well as funds from numerous other categorical programs may now be used for any educational purpose, as only limited by *EC* Section 42605(e)(2). This paragraph requires that any instructional materials purchased by an LEA with these funds be K-8 materials adopted by the State Board of Education, grades 9-12 materials aligned with state standards as defined in *EC* Section 60605, and that LEAs meet the reporting and sufficiency requirements contained in *EC* Section 60119.

Pursuant to *EC* Section 14041, each LEA's allowance is to be apportioned on a monthly basis, with apportionments representing 5 percent of the total entitlement for each LEA in both July and August 2011, and 9 percent in each of the months September 2011 through June 2012.

State Board of Education Resolution
Fiscal Year 2011-12

Tentative Determination of Encumbrances and Allocations for the State Instructional Materials Fund

WHEREAS, California *Education Code* sections 60240 and 60242 require the State Board of Education (SBE) to encumber parts of the State Instructional Materials Fund for use in acquiring and distributing instructional materials, therefore, be it

RESOLVED, the SBE hereby tentatively encumbers the following amounts of the State Instructional Materials Fund for fiscal year 2011-12, subject to change based on the final amount appropriated in the Budget Act of 2011, or related legislation, for instructional materials:

California *Education Code* Section 60240(c)(1)	To pay for the cost of accessible instructional materials	$750,000
California *Education Code* Section 60240(c)(3)	To pay for the cost of warehousing and transporting instructional materials	$245,000
California *Education Code* Section 60242(a)	To establish an allowance per participating local educational agency based upon the relative proportion of Instructional Materials Funding Realignment Program funds that each local educational agency received for the program in 2008-09.	$332,649,000

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 11

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve eight specific Local Educational Agency (LEA) Plans listed in Attachment 1.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since the current LEA Plan process was developed in July 2003 as a requirement of the Elementary and Secondary Education Act (ESEA), the SBE has approved 1,575 LEA Plans.

SUMMARY OF KEY ISSUES

The federal ESEA Section 1112(e)(2) states that the state educational agency (SEA) shall approve an LEA's Plan if the SEA determines that the LEA's Plan is designed to enable its schools to substantially help children meet the academic standards expected for all children. The approval of an LEA Plan by the local school board and by the SBE is a requirement for receiving federal funding subgrants for ESEA programs. The LEA Plan includes specific descriptions and assurances as outlined in the provisions included in ESEA.

The purpose of the LEA Plan is to develop an integrated, coordinated set of actions that LEAs will take to ensure that they meet certain programmatic requirements, including student academic services designed to increase student achievement and performance, coordination of services, needs assessments, consultations, school choice, supplemental services, services to homeless students, and others as required.

In addition, LEA Plans summarize assessment data, school goals, and activities from the *Single Plan for Student Achievement* developed by the LEA's school(s).

SUMMARY OF KEY ISSUES (Cont.)

Districts, counties, and direct-funded charter schools submit LEA Plans to the CDE. CDE program staff review them for compliance with the requirements of the ESEA. Reviews include evaluation of goals and activities designed to improve student performance in reading and mathematics; improve programs for English learner students; improve professional development and ensure the provision of highly qualified teachers; ensure that school environments are safe, drug-free, and conducive to learning; and promote efforts regarding graduation rates, dropout prevention, and advanced placement. If an LEA Plan lacks the required information, CDE program staff works with the LEA to ensure the necessary information is included in the plan before recommending approval of the SBE.

Following initial CDE review and SBE approval, all LEAs and direct-funded charter schools are expected to annually review their plans and update them as necessary. Any changes must be approved by an LEA's local governing board.

FISCAL ANALYSIS (AS APPROPRIATE)

There is no fiscal impact to state operations.

ATTACHMENT(S)

Attachment 1: Direct-Funded Charter Schools Recommended for State Board of Education Approval (1 Page)

Attachment 2: Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plan (4 Pages)

Direct-Funded Charter Schools Recommended for State Board of Education Approval

Local Educational Agency Name	County-District-School Code	Academic Performance Data
Crescent View West Charter School	10-10108-0109991	None; received new district code
Film and Theatre Arts Charter High School	19-64733-0122762	None; opened September 2010
Futuro College Preparatory Elementary School	19-64733-0120667	None; opened September 2010
Long Valley Charter School	18-76729-60110763	See Attachment 2
New Designs Charter School	19-64733-0102541	See Attachment 2
New Jerusalem Charter School	39-68627-0117796	See Attachment 2
Summit Leadership Academy High Desert	36-75044-0107516	See Attachment 2
Teach Academy of Technologies	19-64733-0122242	None; opened September 2010

Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: Long Valley Charter School CDS CODE: 18-76729-60110763	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (56.8%)	Met 2010 AYP Criteria?	Percent At or Above Proficient (58.0%)	Met 2010 AYP Criteria?	2009 Base API	2010 Growth API	Met 2009–10 Growth API Targets***
Schoolwide	**No, met 7 of 9**	**61.5**	**Yes**	**54.8**	**No**	**739**	**750**	**Yes**
African American or Black (not of Hispanic origin)		**	**	**	**			
American Indian or Alaska Native		**	**	**	**			
Asian		**	**	**	**			
Filipino		--	--	--	--			
Hispanic or Latino		**	**	**	**			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		62.2	Yes	53.8	No			
Two or More Races		--	--	--	--			
Socioeconomically Disadvantaged		71.9	**	81.2	**			
English Learners		--	--	--	--			
Students with Disabilities		**	**	**	**			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum “2010 Growth API” score of 680 OR “2009-10 Growth” of at least one point.

SH = Passed by safe harbor: The school, LEA, or subgroup met the criteria for safe harbor, which is an alternate method of meeting the Annual Measurable Objective (AMO) if a school, an LEA, or a subgroup shows progress in moving students from scoring at the below proficient level to the proficient level.

Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: New Designs Charter School CDS CODE: 19-64733-0102541	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (55.6%)	Met 2010 AYP Criteria?	Percent At or Above Proficient (54.8%)	Met 2010 AYP Criteria?	2009 Base API	2010 Growth API	Met 2009–10 Growth API Targets***
Schoolwide	**No, met 20 of 21**	**34.8**	**Yes (SH)**	**53.2**	**Yes (SH)**	**669**	**712**	**Yes**
African American or Black (not of Hispanic origin)		34.0	Yes (SH)	41.8	No			
American Indian or Alaska Native		**	**	**	**			
Asian		**	**	**	**			
Filipino		**	**	**	**			
Hispanic or Latino		34.8	Yes (SH)	58.4	Yes			
Native Hawaiian or Pacific Islander		**	**	**	**			
White (not of Hispanic origin)		--	--	--	--			
Two or More Races		**	**	**	**			
Socioeconomically Disadvantaged		34.2	Yes (SH)	53.5	Yes (SH)			
English Learners		33.7	Yes (SH)	57.4	Yes			
Students with Disabilities		--	--	--	--			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum “2010 Growth API” score of 680 OR “2009-10 Growth” of at least one point.

SH = Passed by safe harbor: The school, LEA, or subgroup met the criteria for safe harbor, which is an alternate method of meeting the Annual Measurable Objective (AMO) if a school, an LEA, or a subgroup shows progress in moving students from scoring at the below proficient level to the proficient level.

'Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: New Jerusalem Charter School CDS CODE: 39-68627-0117796	Met All Adequate Yearly Progress (AYP) Criteria	English-Language Arts		Mathematics		Academic Performance Index (API)		
		Percent At or Above Proficient (56.8%)	Met 2010 AYP Criteria?	Percent At or Above Proficient (58.0%)	Met 2010 AYP Criteria?	2009 Base API	2010 Growth API	Met 2009–10 Growth API Targets***
Schoolwide	**No, met 12 of 17**	**47.3**	**No**	**50.7**	**No**	**764**	**762**	**Yes**
African American or Black (not of Hispanic origin)		50.0	**	50.0	**			
American Indian or Alaska Native		--	--	--	--			
Asian		**	**	**	**			
Filipino		**	**	**	**			
Hispanic or Latino		38.7	Yes (SH)	40.3	No			
Native Hawaiian or Pacific Islander		**	**	**	**			
White (not of Hispanic origin)		51.4	Yes (SH)	57.9	Yes (SH)			
Two or More Races		**	**	**	**			
Socioeconomically Disadvantaged		36.2	No	40.4	No			
English Learners		27.9	**	46.5	**			
Students with Disabilities		29.4	**	35.3	**			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum "2010 Growth API" score of 680 OR "2009-10 Growth" of at least one point.

SH = Passed by safe harbor: The school, LEA, or subgroup met the criteria for safe harbor, which is an alternate method of meeting the Annual Measurable Objective (AMO) if a school, an LEA, or a subgroup shows progress in moving students from scoring at the below proficient level to the proficient level.

Academic Performance for Direct-Funded Charter Schools Recommended for State Board of Education Approval of Local Educational Agency Plans

LEA Name: Summit Leadership Academy High Desert CDS CODE: 36-75044-0107516	Met All Adequate Yearly Progress (AYP) Criteria	**English-Language Arts**		**Mathematics**		**Academic Performance Index (API)**		
		Percent At or Above Proficient (55.6%)	Met 2010 AYP Criteria?	Percent At or Above Proficient (54.8%)	Met 2010 AYP Criteria?	2009 Base API	2010 Growth API	Met 2009–10 Growth API Targets***
Schoolwide	**No, met 4 of 5**	**39.6**	**Yes (CI)**	**24.5**	**No**	**693**	**756**	**Yes**
African American or Black (not of Hispanic origin)		--	--	--	--			
American Indian or Alaska Native		**	**	**	**			
Asian		--	--	--	--			
Filipino		--	--	--	--			
Hispanic or Latino		37.5	**	21.9	**			
Native Hawaiian or Pacific Islander		--	--	--	--			
White (not of Hispanic origin)		50.0	**	25.0	**			
Two or More Races		--	--	--	--			
Socioeconomically Disadvantaged		41.7	**	25.0	**			
English Learners		**	**	**	**			
Students with Disabilities		**	**	**	**			

-- Indicates no data are available.

** Indicates AYP criteria are not applied because there are too few students in this subgroup to be numerically significant.

***Growth targets are 5 percent difference between the Base API and statewide target of 800. The 2010 API criteria for meeting federal AYP: a minimum “2010 Growth API” score of 680 OR “2009-10 Growth” of at least one point.

CI = Passed using confidence intervals: Small schools and LEAs with fewer than 100 valid scores have adjusted AMOs to account for the small number of test scores. These schools and LEAs met the adjusted percent proficient criteria using a confidence interval methodology. Very small schools and LEAs with fewer than 11 valid scores have adjusted API criteria to account for the very small number of test scores. These schools and LEAs met the adjusted API criteria using confidence interval methodology.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 12

CALIFORNIA STATE BOARD OF EDUCATION

July 2011 AGENDA

SUBJECT	
School Accountability Report Card: Approval of the 2010–11 Template.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the proposed template for the 2010–11 School Accountability Report Card (SARC) that will be published during the 2011–12 school year.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE annually approves the SARC template in accordance with the requirements of state laws (California *Education Code* Section 33126). In November 2010, the SBE approved the 2009–10 SARC template that was used for SARCs published during the 2010–11 school year.

SUMMARY OF KEY ISSUES

Each year, the CDE prepares for the SBE an updated template containing all the SARC reporting elements that are required by state and federal laws. Local educational agencies (LEAs) may use the model template or may design their own report cards as long as all legally required information is included.

An optional executive summary for use by LEAs is comprised of SARC reporting elements designed to provide parents and community members with a quick snapshot of their school. The executive summary will be provided to LEAs as part of the SARC template package.

The template has been revised to provide more clear and explicit directions for completing the SARC. No other major changes have been made to the proposed template.

The CDE makes the template available on the Internet in a blank format (without data). Prior to 2009–10, the template was also available in a format that could be downloaded with data (partially pre-populated template) for those reporting elements for which the

SUMMARY OF KEY ISSUES (Cont.)

CDE had data available (such as standardized test results). Due to budget constraints, the partially pre-populated template was not provided in 2009–10, causing a burden to LEAs.

The members of the EdData partnership, which include the CDE, EdSource, and the Fiscal Crisis and Management Assistance Team, determined that the EdData Web site reports much of the data required in the SARC and could serve as a vehicle for providing LEAs with partially pre-populated SARC templates. In a desire to reduce duplicative reporting and data analysis, use taxpayer resources efficiently in this era of reduced budgets, and provide a valuable and much needed service to LEAs, the EdData partnership will produce a partially pre-populated 2010–11 SARC template from the EdData Web site.

LEAs may use the partially pre-populated SARC provided on the EdData Web site to comply with applicable state laws. The CDE will continue to provide downloadable data files that contain all data available to the CDE to assist those LEAs that will continue to create their own SARCs.

The EdData partnership will make available to LEAs the pre-populated template in at least the top five languages.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved by the SBE, the recommended action will result in ongoing costs to the EdData partnership to prepare the partially pre-populated SARC template. All costs associated with the preparation of the data files have been previously accounted for in the Assessment and Accountability Division budget.

ATTACHMENT(S)

Attachment 1: Executive Summary School Accountability Report Card, 2010–11 (4 Pages)

Attachment 2: School Accountability Report Card Reported Using Data from the 2010–11 School Year, Published During 2011–12 (15 Pages)

2010–11
School Accountability Report Card Template
(Word Version)

Prepared by:
California Department of Education
Assessment and Accountability Division

Posted to the Web:
July 29, 2011

Contact:
SARC Team
916-319-0869
sarc@cde.ca.gov

Important!

Please delete this page before using the SARC template

Executive Summary School Accountability Report Card, 2010–11

For ...School

Address: **Phone:**
Principal: **Grade Span:**

This executive summary of the School Accountability Report Card (SARC) is intended to provide parents and community members with a quick snapshot of information related to individual public schools. Most data presented in this report are reported for the 2010–11 school year. School finances and school completion data are reported for the 2009–10 school year. Contact information, facilities, curriculum and instructional materials, and select teacher data are reported for the 2011–12 school year. For additional information about the school, parents and community members should review the entire SARC or contact the school principal or the district office.

About This School

Narrative provided by the LEA

Student Enrollment

Group	Enrollment
Number of students	#
Black or African American	%
American Indian or Alaska Native	%
Asian	%
Filipino	%
Hispanic or Latino	%
Native Hawaiian or Pacific Islander	%
White	%
Two or More Races	%

Teachers

Indicator	Teachers
Teachers with full credential	#
Teachers without full credential	#
Teachers Teaching Outside Subject Area of Competence	#
Misassignments of Teachers of English Learners	#
Total Teacher Misassignments	#

Student Performance

Subject	Students Proficient and Above on STAR[1] Program Results
English-Language Arts	%
Mathematics	%
Science	%
History-Social Science	%

Academic Progress[2]

Indicator	Result
2011 Growth API Score (from 2011 Growth API Report)	#
Statewide Rank (from 2010 Base API Report)	#
Met All 2011 AYP Requirements	Yes/no
Number of AYP Criteria Met Out of the Total Number of Criteria Possible	Met # of #
2011–12 Program Improvement Status (PI Year)	#

School Facilities

Summary of Most Recent Site Inspection

Narrative provided by the LEA

Repairs Needed

Narrative provided by the LEA

Corrective Actions Taken or Planned

Narrative provided by the LEA

Curriculum and Instructional Materials

Core Curriculum Area	Pupils Who Lack Textbooks and Instructional Materials
Reading/Language Arts	%
Mathematics	%
Science	%
History-Social Science	%
Foreign Language	%
Health	%
Visual and Performing Arts	%
Science Laboratory Equipment (grades 9-12)	%

School Finances

Level	Expenditures Per Pupil (Unrestricted Sources Only)
School Site	$
District	$
State	$

[1] Standardized Testing and Reporting Program assessments used for accountability purposes include the California Standards Tests, the California Modified Assessment, and the California Alternate Performance Assessment.
[2] The Academic Performance Index is required under state law. Adequate Yearly Progress is required by federal law.

School Completion

Indicator	Result
Graduation Rate (if applicable)	%

Postsecondary Preparation

Measure	Percent
Pupils Who Completed a Career Technical Education Program and Earned a High School Diploma	%
Graduates Who Completed All Courses Required for University of California or California State University Admission	%

School Accountability Report Card
Reported Using Data from the 2010–11 School Year
Published During 2011–12

Every school in California is required by state law to publish a School Accountability Report Card (SARC), by February 1 of each year. The SARC contains information about the condition and performance of each California public school.

- For more information about SARC requirements, see the California Department of Education (CDE) SARC Web page at http://www.cde.ca.gov/ta/ac/sa/.
- For additional information about the school, parents and community members should contact the school principal or the district office.

I. Data and Access

EdData Partnership Web Site

EdData is a partnership of the CDE, EdSource, and the Fiscal Crisis Management and Assistance Team (FCMAT) that provides extensive financial, demographic, and performance information about California's public kindergarten through grade twelve school districts and schools.

DataQuest

DataQuest is an online data tool located on the CDE DataQuest Web page at http://dq.cde.ca.gov/dataquest/ that contains additional information about this school and comparisons of the school to the district, the county, and the state. Specifically, DataQuest is a dynamic system that provides reports for accountability (e.g., state Academic Performance Index [API], federal Adequate Yearly Progress [AYP]), test data, enrollment, high school graduates, dropouts, course enrollments, staffing, and data regarding English learners.

Internet Access

Internet access is available at public libraries and other locations that are publicly accessible. Access to the Internet at libraries and public locations is generally provided on a first-come, first-served basis. Other use restrictions may include the hours of operation, the length of time that a workstation may be used (depending on availability), the types of software programs available on a workstation, and the ability to print documents.

II. About This School

Contact Information (School Year 2011–12)

School		District	
School Name	*Data provided by the California Department of Education (CDE). All data provided by the CDE should be verified for accuracy by the LEA.*	District Name	*Data provided by the CDE. All data provided by the CDE should be verified for accuracy by the LEA.*
Street		Phone Number	
City, State, Zip		Web Site	
Phone Number		Superintendent	
Principal		E-mail Address	
E-mail Address		CDS Code	

School Description and Mission Statement (School Year 2010–11)

Narrative provided by the LEA
Use this space to provide information about the school, its program, and its goals.

Opportunities for Parental Involvement (School Year 2010–11)

Narrative provided by the LEA
Use this space to provide information on how parents can become involved in school activities, including contact information pertaining to organized opportunities for parent involvement.

Student Enrollment by Grade Level (School Year 2010–11)

Grade Level	Number of Students	Grade Level	Number of Students
Kindergarten	*Data provided by the CDE*	Grade 8	*Data provided by the CDE*
Grade 1		Ungraded Elementary	
Grade 2		Grade 9	
Grade 3		Grade 10	
Grade 4		Grade 11	
Grade 5		Grade 12	
Grade 6		Ungraded Secondary	
Grade 7		Total Enrollment	

Student Enrollment by Race/Ethnicity (School Year 2010–11)

Group	Percent of Total Enrollment
Black or African American	*Data provided by the CDE*
American Indian or Alaska Native	
Asian	
Filipino	
Hispanic or Latino	
Native Hawaiian or Pacific Islander	
White	
Two or More Races	

Average Class Size and Class Size Distribution (Elementary)

Grade Level	Avg. Class Size	2008–09 Number of Classes*			Avg. Class Size	2009–10 Number of Classes*			Avg. Class Size	2010–11 Number of Classes*		
		1-20	21-32	33+		1-20	21-32	33+		1-20	21-32	33+
K	*Data provided by the CDE*				*Data provided by the LEA*				*Data provided by the CDE*			
1												
2												
3												
4												
5												
6												
Other												

* Number of classes indicates how many classes fall into each size category (a range of total students per class).

Average Class Size and Class Size Distribution (Secondary)

Subject	Avg. Class Size	2008–09 Number of Classes*			Avg. Class Size	2009–10 Number of Classes*			Avg. Class Size	2010–11 Number of Classes*		
		1-22	23-32	33+		1-22	23-32	33+		1-22	23-32	33+
English	*Data provided by the CDE*				*Data provided by the LEA*				*Data provided by the CDE*			
Mathematics												
Science												
Social Science												

* Number of classes indicates how many classrooms fall into each size category (a range of total students per classroom). At the secondary school level, this information is reported by subject area rather than grade level.

III. School Climate

School Safety Plan (School Year 2010–11)

Narrative provided by the LEA

Use this space to provide information about the school's comprehensive safety plan, including the dates on which the safety plan was last reviewed, updated, and discussed with faculty; as well as a brief description of the key elements of the plan.

Suspensions and Expulsions

Rate*	School 2008–09	School 2009–10	School 2010–11	District 2008–09	District 2009–10	District 2010–11
Suspensions	*Data provided by the CDE*					
Expulsions						

* The rate of suspensions and expulsions is calculated by dividing the total number of incidents by the total enrollment.

IV. School Facilities

School Facility Conditions and Planned Improvements (School Year 2011–12)

Narrative provided by the LEA

Using the most recent Facility Inspection Tool (FIT) data (or equivalent) provide the following:
- *Description of the safety, cleanliness, and adequacy of the school facility*
- *Description of any planned or recently completed facility improvements*
- *Description of any needed maintenance to ensure good repair*

School Facility Good Repair Status (School Year 2011–12)

System Inspected	Repair Status				Repair Needed and Action Taken or Planned
	Exemplary	Good	Fair	Poor	
Systems: Gas Leaks, Mechanical/HVAC, Sewer	n/a	*Data provided by the LEA* *Using the most recent FIT data (or equivalent) provide the following:* ▪ *Determination of repair status for systems listed* ▪ *Description of any needed maintenance to ensure good repair* ▪ *The year and month in which the data were collected* ▪ *The Overall Rating (bottom row)*			
Interior: Interior Surfaces	n/a				
Cleanliness: Overall Cleanliness, Pest/ Vermin Infestation	n/a				
Electrical: Electrical	n/a				
Restrooms/Fountains: Restrooms, Sinks/ Fountains	n/a				
Safety: Fire Safety, Hazardous Materials	n/a				
Structural: Structural Damage, Roofs	n/a				
External: Playground/School Grounds, Windows/ Doors/Gates/Fences	n/a				
Overall Rating	*Data provided by the LEA*				n/a

V. Teachers

Teacher Credentials

Teachers	School 2008–09	School 2009–10	School 2010–11	District 2010–11
With Full Credential	*Data provided by the CDE*	*Data provided by the LEA*		
Without Full Credential				
Teaching Outside Subject Area of Competence (with full credential)	*Data provided by the LEA*			

Teacher Misassignments and Vacant Teacher Positions

Indicator	2009–10	2010–11	2011–12
Misassignments of Teachers of English Learners	*Data provided by the LEA*		
Total Teacher Misassignments			
Vacant Teacher Positions			

Note: "Misassignments" refers to the number of positions filled by teachers who lack legal authorization to teach that grade level, subject area, student group, etc.
* *Total Teacher Misassignments* includes the number of *Misassignments of Teachers of English Learners*.

Core Academic Classes Taught by Highly Qualified Teachers (School Year 2010–11)

The Federal Elementary and Secondary Education Act (ESEA), also known as No Child Left Behind (NCLB), requires that core academic subjects be taught by Highly Qualified Teachers, defined as having at least a bachelor's degree, an appropriate California teaching credential, and demonstrated core academic subject area competence. For more information, see the CDE Improving Teacher and Principal Quality Web page at: http://www.cde.ca.gov/nclb/sr/tq/

Location of Classes	Percent of Classes In Core Academic Subjects Taught by Highly Qualified Teachers	Percent of Classes In Core Academic Subjects Not Taught by Highly Qualified Teachers
This School	*Data provided by the CDE*	
All Schools in District		
High-Poverty Schools in District		
Low-Poverty Schools in District		

* High-poverty schools are defined as those schools with student eligibility of approximately 40 percent or more in the free and reduced price meals program. Low-poverty schools are those with student eligibility of approximately 25 percent or less in the free and reduced price meals program.

VI. Support Staff

Academic Counselors and Other Support Staff (School Year 2010–11)

Title	Number of FTE Assigned to School	Average Number of Students per Academic Counselor
Academic Counselor	*Data provided by the CDE*	
Counselor (Social/Behavioral or Career Development)	*Data provided by the LEA*	
Library Media Teacher (librarian)	*Data provided by the CDE*	n/a
Library Media Services Staff (paraprofessional)		n/a
Psychologist		n/a
Social Worker		n/a
Nurse		n/a
Speech/Language/Hearing Specialist		n/a
Resource Specialist (non-teaching)		n/a
Other		n/a

* One Full Time Equivalent (FTE) equals one staff member working full time; one FTE could also represent two staff members who each work 50 percent of full time.

VII. Curriculum and Instructional Materials

Quality, Currency, Availability of Textbooks and Instructional Materials (School Year 2011–12)

This section describes whether the textbooks and instructional materials used at the school are from the most recent adoption; whether there are sufficient textbooks and instruction materials for each student; and information about the school's use of any supplemental curriculum or non-adopted textbooks or instructional materials.

Year and month in which data were collected: _____

Core Curriculum Area	Textbooks and instructional materials/year of adoption	From most recent adoption?	Percent students lacking own assigned copy
Reading/Language Arts	*Data provided by the LEA* ***Note: You are not required to present SARC information in a tabular format. This template is only a guide. You can provide a narrative or other format. But be sure to include all the information requested below for this section:*** *List all textbooks and instructional materials used in the school in core subjects (reading/language arts, math, science, & history-social science), including:* ▪ *Year they were adopted* ▪ *Whether they were selected from the most recent list of standards-based materials adopted by the SBE or local governing board* ▪ *Percent of students who lack their own assigned textbooks and/or instructional materials** ▪ *For K-8, include any supplemental curriculum adopted by local governing board* **If an insufficiency exists, the description must identify the percent of students who lack sufficient textbooks and instructional materials. Be sure to use the most recent available data collected by the LEA and* ***note the year and month in which the data were collected.***		
Mathematics			
Science			
History-Social Science			
Foreign Language			
Health			
Visual and Performing Arts			
Science Laboratory Equipment (grades 9-12)			

VIII. School Finances

Expenditures Per Pupil and School Site Teacher Salaries (Fiscal Year 2009–10)

Level	Total Expenditures Per Pupil	Expenditures Per Pupil (Supplemental / Restricted)	Expenditures Per Pupil (Basic / Unrestricted)	Average Teacher Salary
School Site	*Data provided by the LEA*			
District	n/a	*Data provided by the CDE*		
Percent Difference – School Site and District	n/a	n/a	*Data provided by the LEA*	
State	n/a	n/a	*Data provided by the CDE*	
Percent Difference – School Site and State	n/a	n/a	*Data provided by the LEA*	

Note: ***Supplemental/Restricted*** expenditures come from money whose use is controlled by law or by a donor. Money that is designated for specific purposes by the district or governing board is not considered restricted. ***Basic/unrestricted*** expenditures are from money whose use, except for general guidelines, is not controlled by law or by a donor.

For detailed information on school expenditures for all districts in California, see the CDE Current Expense of Education & Per-pupil Spending Web page at http://www.cde.ca.gov/ds/fd/ec/. For information on teacher salaries for all districts in California, see the CDE *Certificated Salaries & Benefits* Web page at http://www.cde.ca.gov/ds/fd/cs/. To look up expenditures and salaries for a specific school district, see the Ed-Data Web site at: http://www.ed-data.org.

Types of Services Funded (Fiscal Year 2010–11)

Narrative provided by the LEA

Provide specific information about the types of programs and services available at the school that support and assist students. For example, this narrative may include information about supplemental educational services related to the school's federal Program Improvement (PI) status.

Teacher and Administrative Salaries (Fiscal Year 2009–10)

Category	District Amount	State Average For Districts In Same Category
Beginning Teacher Salary	*Data provided by the CDE*	
Mid-Range Teacher Salary		
Highest Teacher Salary		
Average Principal Salary (Elementary)		
Average Principal Salary (Middle)		
Average Principal Salary (High)		
Superintendent Salary		
Percent of Budget for Teacher Salaries		
Percent of Budget for Administrative Salaries		

For detailed information on salaries, see the CDE Certificated Salaries & Benefits Web page at http://www.cde.ca.gov/ds/fd/cs/.

IX. Student Performance

Standardized Testing and Reporting Program

The Standardized Testing and Reporting (STAR) Program consists of several key components, including:

- **California Standards Tests (CSTs)**, which include English-language arts (ELA) and mathematics in grades two through eleven; science in grades five, eight, and nine through eleven; and history-social science in grades eight, and nine through eleven.

- **California Modified Assessment (CMA)**, an alternate assessment that is based on modified achievement standards in ELA for grades three through eleven; mathematics for grades three through seven, Algebra I, and Geometry; and science in grades five and eight, and Life Science in grade ten. The CMA is designed to assess those students whose disabilities preclude them from achieving grade-level proficiency on an assessment of the California content standards with or without accommodations.

- **California Alternate Performance Assessment (CAPA)**, includes ELA and mathematics in grades two through eleven, and science for grades five, eight, and ten. The CAPA is given to those students with significant cognitive disabilities whose disabilities prevent them from taking either the CSTs with accommodations or modifications or the CMA with accommodations.

The assessments under the STAR Program show how well students are doing in relation to the state content standards. On each of these assessments, student scores are reported as performance levels.

For detailed information regarding the STAR Program results for each grade and performance level, including the percent of students not tested, see the CDE STAR Results Web site at http://star.cde.ca.gov.

Standardized Testing and Reporting Results for All Students – Three-Year Comparison

Subject	Percent of Students Scoring at Proficient or Advanced (meeting or exceeding the state standards)								
	School			District			State		
	2008–09	2009–10	2010–11	2008–09	2009–10	2010–11	2008–09	2009–10	2010–11
English-Language Arts	*Data provided by the CDE*								
Mathematics									
Science									
History-Social Science									

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

Standardized Testing and Reporting Results by Student Group – Most Recent Year

Group	Percent of Students Scoring at Proficient or Advanced			
	English-Language Arts	Mathematics	Science	History-Social Science
All Students in the LEA	*Data provided by the CDE*			
All Students at the School				
Male				
Female				
Black or African American				
American Indian or Alaska Native				
Asian				
Filipino				
Hispanic or Latino				
Native Hawaiian or Pacific Islander				
White				
Two or More Races				
Socioeconomically Disadvantaged				
English Learners				
Students with Disabilities				
Students Receiving Migrant Education Services				

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

California High School Exit Examination

The California High School Exit Examination (CAHSEE) is primarily used as a graduation requirement. However, the grade ten results of this exam are also used to establish the percentages of students at three proficiency levels (not proficient, proficient, or advanced) in ELA and mathematics to compute AYP designations required by the federal ESEA, also known as NCLB.

For detailed information regarding CAHSEE results, see the CDE CAHSEE Web site at http://cahsee.cde.ca.gov/.

California High School Exit Examination Results for All Grade Ten Students – Three-Year Comparison (if applicable)

Subject	Percent of Students Scoring at Proficient or Advanced								
	School			District			State		
	2008–09	2009–10	2010–11	2008–09	2009–10	2010–11	2008–09	2009–10	2010–11
English-Language Arts	*Data provided by the CDE*								
Mathematics									

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

California High School Exit Examination Grade Ten Results by Student Group – Most Recent Year (if applicable)

Group	English-Language Arts			Mathematics		
	Not Proficient	Proficient	Advanced	Not Proficient	Proficient	Advanced
All Students in the LEA	*Data provided by the CDE*					
All Students at the School						
Male						
Female						
Black or African American						
American Indian or Alaska Native						
Asian						
Filipino						
Hispanic or Latino						
Native Hawaiian or Pacific Islander						
White						
Two or More Races						
Socioeconomically Disadvantaged						
English Learners						
Students with Disabilities						
Students Receiving Migrant Education Services						

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

California Physical Fitness Test Results (School Year 2010–11)

The California Physical Fitness Test (PFT) is administered to students in grades five, seven, and nine only. This table displays by grade level the percent of students meeting the fitness standards for the most recent testing period. For detailed information regarding this test, and comparisons of a school's test results to the district and state, see the CDE PFT Web page at http://www.cde.ca.gov/ta/tg/pf/.

Grade Level	Percent of Students Meeting Fitness Standards		
	Four of Six Standards	Five of Six Standards	Six of Six Standards
5	*Data provided by the CDE*		
7			
9			

Note: Scores are not shown when the number of students tested is ten or less, either because the number of students in this category is too small for statistical accuracy or to protect student privacy.

X. Accountability

Academic Performance Index

The Academic Performance Index (API) is an annual measure of state academic performance and progress of schools in California. API scores range from 200 to 1,000, with a statewide target of 800. For detailed information about the API, see the CDE API Web page at http://www.cde.ca.gov/ta/ac/ap/.

Academic Performance Index Ranks – Three-Year Comparison

This table displays the school's statewide and similar schools' API ranks. The ***statewide API rank*** ranges from 1 to 10. A statewide rank of 1 means that the school has an API score in the lowest ten percent of all schools in the state, while a statewide rank of 10 means that the school has an API score in the highest ten percent of all schools in the state.

The ***similar schools API rank*** reflects how a school compares to 100 statistically matched "similar schools." A similar schools rank of 1 means that the school's academic performance is comparable to the lowest performing ten schools of the 100 similar schools, while a similar schools rank of 10 means that the school's academic performance is better than at least 90 of the 100 similar schools.

API Rank	2008	2009	2010
Statewide	*Data provided by the CDE*		
Similar Schools			

Academic Performance Index Growth by Student Group – Three-Year Comparison

Group	Actual API Change 2008–09	Actual API Change 2009–10	Actual API Change 2010–11
All Students at the School	*Data provided by the CDE*		
Black or African American			
American Indian or Alaska Native			
Asian			
Filipino			
Hispanic or Latino			
Native Hawaiian or Pacific Islander			
White			
Two or More Races	N/A		
Socioeconomically Disadvantaged			
English Learners			
Students with Disabilities			

Note: "N/A" means that the student group is not numerically significant or data were not available.

Academic Performance Index Growth by Student Group – 2011 Growth API Comparison

This table displays, by student group, the number of students included in the API and the 2011 Growth API at the school, LEA, and state level.

Group	2011 Growth API					
	Number of Students	School	Number of Students	LEA	Number of Students	State
All Students at the School	*Data provided by the CDE*					
Black or African American						
American Indian or Alaska Native						
Asian						
Filipino						
Hispanic or Latino						
Native Hawaiian or Pacific Islander						
White						
Two or More Races						
Socioeconomically Disadvantaged						
English Learners						
Students with Disabilities						

Adequate Yearly Progress

The federal ESEA requires that all schools and districts meet the following Adequate Yearly Progress (AYP) criteria:

- Participation rate on the state's standards-based assessments in ELA and mathematics
- Percent proficient on the state's standards-based assessments in ELA and mathematics
- API as an additional indicator
- Graduation rate (for secondary schools)

For detailed information about AYP, including participation rates and percent proficient results by student group, see the CDE AYP Web page at http://www.cde.ca.gov/ta/ac/ay/.

Adequate Yearly Progress Overall and by Criteria (School Year 2010–11)

AYP Criteria	School	District
Made AYP Overall	*Data provided by the CDE*	
Met Participation Rate - English-Language Arts		
Met Participation Rate - Mathematics		
Met Percent Proficient - English-Language Arts		
Met Percent Proficient - Mathematics		
Met API Criteria		
Met Graduation Rate		

Federal Intervention Program (School Year 2011–12)

Schools and districts receiving federal Title I funding enter Program Improvement (PI) if they do not make AYP for two consecutive years in the same content area (ELA or mathematics) or on the same indicator (API or graduation rate). After entering PI, schools and districts advance to the next level of intervention with each additional year that they do not make AYP. For detailed information about PI identification, see the CDE PI Status Determinations Web page: http://www.cde.ca.gov/ta/ac/ay/tidetermine.asp.

Indicator	School	District
Program Improvement Status	*Data provided by the CDE*	
First Year of Program Improvement		
Year in Program Improvement		
Number of Schools Currently in Program Improvement	n/a	
Percent of Schools Currently in Program Improvement	n/a	

XI. School Completion and Postsecondary Preparation

Admission Requirements for California's Public Universities

University of California

Admission requirements for the University of California (UC) follow guidelines set forth in the Master Plan, which requires that the top one-eighth of the state's high school graduates, as well as those transfer students who have successfully completed specified college course work, be eligible for admission to the UC. These requirements are designed to ensure that all eligible students are adequately prepared for University-level work.

For general admissions requirements, please visit the UC Admissions Information Web page at http://www.universityofcalifornia.edu/admissions/. (Outside source)

California State University

Eligibility for admission to the California State University (CSU) is determined by three factors:

- Specific high school courses
- Grades in specified courses and test scores
- Graduation from high school

Some campuses have higher standards for particular majors or students who live outside the local campus area. Because of the number of students who apply, a few campuses have higher standards (supplementary admission criteria) for all applicants. Most CSU campuses have local admission guarantee policies for students who graduate or transfer from high schools and colleges that are historically served by a CSU campus in that region. For admission, application, and fee information see the CSU Web page at http://www.calstate.edu/admission/admission.shtml. (Outside source)

Dropout Rate and Graduation Rate

Indicator	School			District			State		
	2007–08	2008–09	2009–10	2007–08	2008–09	2009–10	2007–08	2008–09	2009–10
Dropout Rate (1-year)	*Data provided by the CDE*								
Graduation Rate									

Note: The National Center for Education Statistics graduation rate as reported in AYP is provided in this table.

Completion of High School Graduation Requirements

This table displays, by student group, the percent of students who began the 2010–11 school year in grade twelve and were a part of the school's most recent graduating class, meeting all state and local graduation requirements for grade twelve completion, including having passed both the ELA and mathematics portions of the CAHSEE or received a local waiver or state exemption.

Group	Graduating Class of 2011		
	School	District	State
All Students	*Data provided by the LEA*		N/A
Black or African American			N/A
American Indian or Alaska Native			N/A
Asian			N/A
Filipino			N/A
Hispanic or Latino			N/A
Native Hawaiian or Pacific Islander			N/A
White			N/A
Two or More Races			N/A
Socioeconomically Disadvantaged			N/A
English Learners			N/A
Students with Disabilities			N/A

Career Technical Education Programs (School Year 2010–11)

Narrative provided by the LEA

Use this space to provide information about Career Technical Education (CTE) programs including:

- *Programs and classes offered that are specifically focused on career preparation and or preparation for work*
- *How these programs and classes are integrated with academic courses and how they support academic achievement*
- *How the school addresses the needs of all students in career preparation and/or preparation for work, including needs unique to defined special populations of students*
- *The measurable outcomes of these programs and classes, and how they are evaluated*
- *State the primary representative of the district's CTE advisory committee and the industries represented on the committee*

Career Technical Education Participation (School Year 2010–11)

Measure	CTE Program Participation
Number of pupils participating in CTE	*Data provided by the LEA*
Percent of pupils completing a CTE program and earning a high school diploma	
Percent of CTE courses sequenced or articulated between the school and institutions of postsecondary education	

Courses for University of California and/or California State University Admission (School Year 2009–10)

UC/CSU Course Measure	Percent
Students Enrolled in Courses Required for UC/CSU Admission	*Data provided by the LEA*
Graduates Who Completed All Courses Required for UC/CSU Admission	

Advanced Placement Courses (School Year 2010–11)

Subject	Number of AP Courses Offered	Percent of Students In AP Courses
Computer Science	*Data provided by the CDE*	n/a
English		n/a
Fine and Performing Arts		n/a
Foreign Language		n/a
Mathematics		n/a
Science		n/a
Social Science		n/a
All courses		

XII. Instructional Planning and Scheduling

Professional Development

This section provides information on the annual number of school days dedicated to staff development for the most recent three-year period.

Narrative provided by the LEA

Use this space to share information on the number of days provided for professional development and continuous professional growth in the most recent three year period. Questions that may be answered include:

- What are the primary/major areas of focus for staff development and specifically how were they selected? For example, were student achievement data used to determined the need for professional development in reading instruction?
- What are the methods by which professional development is delivered (e.g., after school workshops, conference attendance, individual mentoring, etc.)?
- How are teachers supported during implementation (e.g., through in-class coaching, teacher-principal meetings, student performance data reporting, etc.)?

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 13

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 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(S)

None

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 14

ITEM #14

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Update and Discussion on the Activities of the California Department of Education and State Board of Education Regarding Implementation of the Common Core State Standards.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take action as deemed necessary and appropriate. Because this is first in a series of updates, there is no specific action recommended at this time. SBE action is anticipated on a plan presented by the CDE in September.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

June 3, 2011: Governor Jerry Brown, State Superintendent of Public Instruction (SSPI) Tom Torlakson, and SBE President Michael Kirst signed the memorandum of understanding for California's participation as a governing state in the SMARTER Balanced Assessment Consortium (SBAC).

November 2010: The CDE presented to the SBE an update on the implementation of the Common Core State Standards (CCSS). This update was provided at the joint meeting between the SBE and the Commission on Teacher Credentialing (CTC)(See agenda at http://www.cde.ca.gov/be/pn/pn/ctcsbeagenda08nov2010.asp).

August 2010: Pursuant to Senate BillX5 1, the SBE adopted the academic content standards in English language arts (ELA) and mathematics as proposed by the California Academic Content Standards Commission; the standards include the CCSS and specific additional standards that the Commission had deemed necessary to maintain the integrity and rigor of California's already high standards.

May 2009: The State Superintendent of Public Instruction (SSPI), the Governor of California, and the SBE President agreed to participate in the Council of Chief State School Officers (CCSSO) and the National Governors Association (NGA) Center for Best Practices initiative to develop the CCSS as part of California's application to the federal Race to the Top grant.

SUMMARY OF KEY ISSUES Cont.

When the SBE adopted the CCSS with modifications and additions in August 2010, these standards became the current subject matter standards in ELA and mathematics. However, as with most of the other states adopting the CCSS, the full implementation of these standards will occur over several years as new curriculum frameworks, instructional materials, and assessments are implemented.

California *Education Code* Section 60605.8 (h) requires the SSPI and the SBE to present a schedule and an implementation plan to the Governor and the appropriate policy and fiscal committees of the Legislature for integrating the CCSS into the state educational system. These proposed activities are included herein as Attachment 1.

Currently, the CDE is engaged in many activities designed to prepare the state's educational stakeholders for full implementation of the CCSS. The following list highlights some of these activities:

- California is participating in the State Collaborative on Assessment and Student Standards–Implementing the Common Core System (SCASS-ICCS). The participants from California include CDE staff (Deputy Superintendent Deb Sigman, Directors Thomas Adams, Patrick Ainsworth, Fred Balcom, Phil Lafontaine, and Rachel Perry), SBE member and staff (Patricia Rucker, member, and Sue Burr, Executive Director), legislative staff (Marisol Avina, Consultant, Assembly Education Committee, and Leonor Ehling, Deputy Director, Senate Office of Research), and CTC staff (Teri Clarke, Administrator). This is the first time that California has created a standards-implementation team that includes representatives from the CDE, SBE, Legislature, and CTC. This collaboration will assist in having a cohesive system of implementation and ensure the sustainability. The California team will present its findings and provide an updated plan for implementing the Common Core at the September 2011 SBE meeting.

- The CDE created an internal working group with participants from across CDE branches to plan for CCSS implementation and to develop new publications and presentations. The work of this group is informing the California team for SCASS-ICCS process.

  The CDE is collaborating with the California Teachers Association (CTA) by providing three professional learning workshops on the CCSS. The first occurred in January 21, 2011, in San Jose and the second was held March 18, 2011, in Anaheim. A third will occur August 2, 2011, in Los Angeles at the upcoming Summer Institute. The collaboration with the CTA is an effort to get information directly to the teachers and teacher-leaders who will implement the new standards in the classrooms.

SUMMARY OF KEY ISSUES (Cont.)

- To prepare for the implementation of the CCSS and in anticipation of the passage of SB 140, the SSPI has invited publishers of state-adopted programs in mathematics and language arts to submit supplemental instructional materials that bridge the gap between their SBE-adopted programs and the Common Core State Standards (CCSS) including the California modifications and additions. The first phase of the process is for the publishers to submit standards maps that will be verified by CDE staff. The second phase of the process is the submission and review of supplemental materials. The SSPI and the SBE will need to recruit teachers and content experts who will review the supplemental materials for alignment to the CCSS. In spring 2012 the reviewers will be trained and receive the proposed bridge materials. At the end of June 2012, the reviewers will complete their work and the CDE will list the results on the CDE Web site. The SBE will receive a report of findings and, if SB 140 is passed into law, the CDE will submit the list of supplemental materials in September 2012, to the SBE for approval. These bridge materials will serve as resources that can help local educational agencies in their transition to the CCSS standards.

- The California Learning Resources Network, a state-funded effort administered by the Stanislaus County Office of Education, has begun the process of reviewing electronic supplemental instructional materials according to the CCSS. The results can be found at http://www.clrn.org (Outside Source).

- The CDE created a new publication entitled *A Look at Kindergarten through Grade Six in California Public Schools.* This publication discusses the standards for each subject by grade level and explains differences and commonalities between the past ELA and mathematics standards and the new CCSS. Teachers, administrators, and parents are using this document to get an overall understanding of how the transition to the CCSS will prove beneficial to all stakeholders.

- The CDE developed seven webinars to accompany *A Look at Kindergarten through Grade Six in California Public Schools* and continues to present webinars based upon the new publication of grade level curriculum.

- Multiple, in-depth, PowerPoint presentations, designed to introduce and examine the CCSS, have been developed by the CDE, and presented by staff at various conferences around the state.

- The Department launched, in conjunction with Apple, “CDE on iTunes U” which provides professional development content developed both internally and from external providers; this content includes CCSS-related material.

SUMMARY OF KEY ISSUES (Cont.)

- A Web site (http://www.cde.ca.gov/ci/cc/) was created, dedicated to presenting the latest information regarding the CCSS. This Web site contains links to many important resources including the following:

    - Links to the CCSS including the California additions and modifications
    - Links to historical documents leading up to the SBE adoption of the CCSS
    - Frequently Asked Questions
    - The publication *A Look at Kindergarten through Grade Six in California Public Schools*
    - Links to upcoming and archived webinars related to the publication
    - Brief overviews of the CCSS as a whole, the CCSS mathematics, and the CCSS ELA in English, Spanish, Chinese, and Vietnamese
    - CCSS for Mathematics: Preparing Students for Success in Algebra I–an informational flyer that provides a brief overview of how the new standards address preparing students for success in algebra
    - Links to multiple resources made available by the CCSSO
    - Assessment Update–a presentation from the North/South Information Meetings, presented in Sacramento on September 21, 2010, and in Ontario on September 28, 2010
    - A series of seven PowerPoint presentations made to the CTA's Good Teaching Conference

  The presentations and webinars available on this Web site have been delivered live around the state and are preserved for anyone to access at their convenience. The content of these presentations demonstrates California's efforts to not only introduce the CCSS to all stakeholders, but also to delve into the specifics of how teachers may begin to integrate the CCSS into their curriculum as California moves forward toward full implementation.

- Smarter Balanced Assessment Consortium (SBAC): As a governing state, California will have a decision-making role in the design and implementation of the new national assessments based upon the CCSS. The SBAC will develop assessments in English language arts and mathematics for grades three through eight and once in grade eleven as required by the federal Elementary and Secondary Education Act (ESEA). Computer-adaptive assessments are central to the design of the SBAC. The use of computer-adaptive assessments holds great promise for California and will provide faster and more accurate measures of student achievement and improvement. CDE

SUMMARY OF KEY ISSUES (Cont.)

and SBE staff will be participating in weekly SBAC governing state conference calls, the first of which happened during the week of June 13, 2011. CDE staff is evaluating the SBAC Work Groups to determine the best way in which California can influence the development of the SBAC assessment system.

- Standardized Testing and Reporting (STAR) Program and the California High School Exit Examination (CAHSEE): California's current assessment system is more comprehensive than the requirements laid out in the ESEA. In order to prepare for the transition to the CCSS and the associated assessments a thorough discussion about the future of California's assessment system has begun. On June 7, 2011, the CDE convened a special meeting of the STAR/CAHSEE Technical Advisory Group (TAG), made up of district and university technical experts, to discuss the next steps in transitioning to a new assessment system. The CDE will be convening groups of stakeholders within and outside of the CDE to gather input and work on identifying possible directions and priorities that will facilitate planning and the transition into the new assessment system. This information will be brought to the fall 2011 STAR/CAHSEE TAG meeting where key members of the SBAC will be invited to participate in further discussions. In addition, AB 250, if passed into law, will require the SSPI to develop recommendations for the reauthorization of the statewide pupil assessment system by November 1, 2012. The work of these stakeholder group meetings will look at economizing the assessments and preparing California schools and school districts for the transition.

- Academic Performance Index (API): The transition to a new assessment system can not be discussed without also discussing the impact of those changes on the state and federal accountability system and the availability of a student growth score that could be used in accountability decisions. The state accountability system, the API, is flexible and accommodating to changes in the assessment system. Each API cycle consists of a Base API and a Growth API calculated in the same fashion using the same assessments across two school years. Because the API is an improvement model, it focuses on change in student achievement from one year to the next. So while the assessment system may change, the calculation methodology for the API can accommodate it. However, the SSPI and the SBE should review various characteristics of the API system, including the performance level weighting factors (i.e., the weights given to each performance level), the relative weights of the various assessments in the API, whether a student growth measure should be used, the statewide target, and the annual growth targets.

  Adequate Yearly Progress (AYP): The federal accountability system requires states to utilize their statewide assessments and identify annual targets representing the expectation of how many students will score at the proficient level or above. Under ESEA each state was required to set annual targets through 2013-14 when 100 percent of students are expected to be proficient or above. While the future of ESEA is not known, California will need to consider, among other things, how student growth scores should be used for federal accountability.

SUMMARY OF KEY ISSUES (Cont.)

- Common Core Modifications and Additions: When the SBE adopted the CCSS, its action created two significant challenges for implementation. One was the adoption of a dual set of mathematics standards at grade eight and the other was the omission of the college and career readiness anchor standards.

    - Grade 8 Mathematics and Algebra 1 at Grade 8: The adoption of a dual set of mathematics standards at grade eight, CCSS math and "Algebra 1 at Grade 8" raises a number of concerns. The first is the number of standards. The "Algebra 1 at Grade 8" has 51 standards while the current Algebra 1 standards includes 25 standards. Also, California up to this point has consistently defined the content of Algebra 1 regardless of what grade it is taught. Second is that the ESEA requires that every state adopt a single set of content standards and performance standards that apply to all schools and children in the state. California meets this requirement for every subject at every grade except one, grade eight mathematics, as the state has adopted two sets of standards. In addition, the Algebra 1 at Grade 8 standards are specific to California, and therefore will not be part of the assessments being developed nationally by the two assessment consortia

    - College and Career Readiness Anchor Standards for English Language Arts (ELA): Although these anchor standards are the foundation of the CCSS, they were not part of the SBE action on August 2, 2010. The anchor standards provide the focus within the four strands of reading, writing, speaking and listening, language, and for grades six through twelve (6-12) literacy in history–social studies, science, and technical subjects. Noteworthy is that the anchor standards in grades K-5 and 6-12 provide the focus and structure within the grade span and this design ensures that skills build up in a "staircase" fashion. The absence of the ELA anchor standards means the California version of the standards is incomplete and may create confusion in shared initiatives with other states.

      The SSPI and the SBE will need statutory authority to allow for changes to the CCSS as adopted on August 2, 2010.

- The SSPI is working with the Legislature by sponsoring bills and providing technical assistance to the Budget Act of 2011-12. The SSPI looks forward to collaborating further with the SBE in shaping the currently SSPI-sponsored legislation.

    - AB 124 (Fuentes), which would establish a 13-member English Language Development (ELD) Standards Advisory Committee for the purpose of updating, revising, and aligning the ELD standards to California's newly-adopted CCSS ELA standards. This committee would present their recommended new ELD standards to the SBE for proposed adoption by August 31, 2012, and the SBE would have until September 30, 2012, to either adopt or reject the proposed ELD standards.

SUMMARY OF KEY ISSUES (Cont.)

- The SSPI is also sponsoring AB 250 (2011, Brownley) as the main legislative vehicle for implementing the CCSS. ABX4 2, (Statutes of 2009-10) suspended the process and procedures for developing curriculum frameworks and adopting instructional materials until 2013-14. SB 70 (Statutes of 2010-11) extended that suspension until the 2015-16 school year. The SSPI will seek to ensure that the bill contains the shared aims and goals of the SSPI and SBE in implementing the CCSS. The major areas that need to be addressed include curriculum framework development, instructional materials adoptions, professional development, assessment, and accountability.

FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal impact of implementing the CCSS is significant but will be offset by the improved efficiencies, benefits of shared costs with other states, and the shifting of current costs to CCSS activities. Currently, the CDE is providing professional development via webinars and presentations and has already provided guidance for transitioning to the CCSS. Assessment costs will be shifted from the STAR Program to one of the new assessment consortia. In addition, current efforts will be redirected to support the implementation of the CCSS, especially in the area of professional development. In terms of instructional materials, costs will span multiple years, but will be offset by access to a national market of materials and greater price competition. In addition, currently-adopted instructional materials will be studied for alignment to the CCSS including the California modifications and additions. Nonetheless, the implementation of new standard assessments, the development and implementation of new accountability measures, local and statewide professional development, the development of new curriculum frameworks, and the review and acquisition of new instructional materials will require a refocusing of efforts, shifting of resources, and restoring of educational funding to pre-crisis levels

ATTACHMENT(S)

Attachment 1: Proposed Activities for Implementing Common Core State Standards–California 2010–16 (5 Pages)

Proposed Activities for Implementing the Common Core State Standards–California 2010–16

Timeline	State	Local Educational Agency	Assessment Consortium
2010–11	• Adoption of the Common Core State Standards (CCSS) August 2010 • Launch CCSS Web site • Develop, present and post informational transition documents • Conduct local informational presentations • Conduct informational webinars • Post California Department of Education presentations and webinars to CCSS Web site and CDE on iTunes U • Participate in Council of Chief State School Officers (CCSSO) and assessment consortium implementation planning meetings • Collaborate with Higher Education and the Commission on Teacher Credentialing (CTC) • Begin internal needs assessment and subsequent implementation of document/instrument/programs alignment to the CCSS	• Review and utilize state, county, assessment consortium and CCSSO resources to become familiar with the CCSS • Examine current practices for opportunities to integrate CCSS instruction. • Align instruction to the CCSS wherever possible	• Conduct initial analysis of the content and structure of the CCSS from December 2010 to February 2011
2011–12	• Superintendent's Review of 2008 English language arts and 2007 mathematics materials for alignment to the CCSS with	• Develop local plan for teacher professional development (TPD)	• Assessment Design and item writing are being worked on.

Timeline	State	Local Educational Agency	Assessment Consortium
	SSPI and SBE collaborating on recruiting and training of reviewer and facilitating the review process. • Internal needs assessment and subsequent implementation of document/instrument/programs alignment to the CCSS • Maintain CCSS Web site • Develop, present and post informational transition documents • Conduct local informational presentations • Conduct informational Webinars • Post CDE presentations and Webinars to CCSS Web site and CDE on iTunes U • Participate in CCSSO and assessment consortium implementation planning meetings • Collaborate with Higher Education and the CTC	• Prioritize needs for TPD for CCSSM • *Overarching focus: Standards for Mathematical Practice* • Prioritize needs for TPD for CCSSELA *Overarching focus: Text Complexity* • Review final report from Superintendent's Review of 2008 English language arts and 2007 mathematics materials for capacity to support student attainment of the CCSS • Conduct materials needs assessment • Conduct technology needs assessment • Develop structures for grades 6-12 ELA teachers to collaborate with science, history–social studies (HSS), and technical subjects teachers regarding the CCSS literacy standards • Continue to review and utilize state, county, assessment consortium, and CCSSO resources to become familiar with the CCSS	

Timeline	State	Local Educational Agency	Assessment Consortium
		• Continue to examine current practices for opportunities to integrate CCSS instruction • Continue to align instruction to the CCSS wherever possible	
2012–13	• Superintendent's Review of new supplemental materials for alignment to the CCSS: SSPI and SBE sharing finding of review process • Translation of CCSS into Spanish • Pending approval of Assembly Bill 124 (legislative session 2011-12) English Language Development Standards Advisory Committee established • Pending approval of AB 124 (legislative session 2011-12) ELD standards aligned to CCSS • Statewide professional development via Titles I, II, and III • Pending approval of AB 250 (legislative session 2011-12) SBE adoption of new CCSS-based mathematics curriculum framework • Maintain CCSS Web site • Develop, present and post informational transition documents • Conduct local informational presentations	• Implement year 2 of teacher professional development plan (see 2011-2012) • Review final report from Superintendent's Review of new supplemental materials for capacity to support student attainment of the CCSS • Conduct local needs assessment of supplemental materials • Implement structures for grades 6-12 ELA teachers to collaborate with science, HSS, and technical subjects teachers regarding the CCSS literacy standards • Continue to identify areas of need for resources and professional development	• Field test development and pilot testing will take place

Timeline	State	Local Educational Agency	Assessment Consortium
	• Conduct informational Webinars • Post CDE presentations and Webinars to CCSS Web site and CDE on iTunes U • Participate in CCSSO and assessment consortium implementation planning meetings • Collaborate with Higher Education and the CTC	• Continue to review and utilize state, county, assessment consortium, and CCSSO resources to become familiar with the CCSS • Continue to examine current practices for opportunities to integrate CCSS instruction • Continue to align instruction to the CCSS wherever possible	
2013–14	• Statewide professional development via Titles I, II, and III • Pending approval of Assembly Bill 250 (legislative session 2011-12) SBE adoption of new CCSS-based English language arts curriculum framework • Maintain CCSS Web site • Develop, present and post informational transition documents • Conduct local informational presentations • Conduct informational Webinars • Post CDE presentations and Webinars to CCSS Web site and CDE on iTunes U • Participate in CCSSO and assessment consortium implementation meetings	• Implement year 3 of professional development plan (see 2011-2012) • Continue to review and utilize state, county, assessment consortium, and CCSSO resources to fully implement the CCSS • Continue to align instruction to the CCSS wherever possible	• Field testing will take place

Timeline	State	Local Educational Agency	Assessment Consortium
	• Collaborate with Higher Education and the CTC		
2014–15	• Statewide professional development via Titles I, II, and III • Maintain CCSS Web site • Develop, present and post informational transition documents • Conduct local informational presentations • Conduct informational Webinars • Post CDE presentations and Webinars to CCSS Web site and CDE on iTunes U • Participate in CCSSO and assessment consortium implementation meetings	• Full implementation of the CCSS • Continue to review and utilize state, county, assessment consortium, and CCSSO resources to fully implement the CCSS	• Beginning with the 2014-15 school year, the Consortium's tests will be operational and ready to use as federal accountability assessments
2015-16	• Suspension of SBE Curriculum Frameworks development and instructional materials adoption ends		

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 15

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.	☒ **Action** ☒ **Information** ☐ **Public Hearing**

RECOMMENDATION

Take action (as necessary and appropriate) regarding State Board Projects and Priorities.

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, Board policy; Board minutes; Board liaison reports; and other matters of interest. The State Board has asked that this item be placed appropriately on each agenda.

SUMMARY OF KEY ISSUES

1. Board Member Liaison Reports
2. Consideration of Recommendations of Advisory Commission on Charter Schools’ Commissioners (See Attachment 3)
3. Consideration of Recommendations of Advisory Commission on Special Education Commissioners (See Attachment 3)

FISCAL ANALYSIS (AS APPROPRIATE)

Not applicable.

ATTACHMENT(S)

Attachment 1: Acronyms Chart (3 Pages)

Attachment 2: State Board Bylaws (as amended July 9, 2003) (10 pages)

Attachment 3: Recommendations for California State Board of Education Commission Members (1 Page)

Attachment 4: State Board of Education Minutes for the July 2010, August 2, 2010, August 24, 2010, September 2010, November 2010, December 2010, January 2011, February 2011, March 2011, April 21, 2011, and May 2011, meetings will be provided as Addenda.

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
CASBO	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
ED	United States Department of Education
EL	English Learner
ELAC	English Learner Advisory Committee
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
	ACRONYMS CHART

ACRONYMS	
SB	Senate Bill
SEA	State Educational Agency
SELPA	Special Education Local Plan Area
SBCP	School Based Coordination Program
SBE	State Board of Education
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
UTLA	United Teachers-Los Angeles
WIA	Workforce Investment Act

This acronyms chart was posted by the State Board of Education on October 29, 2010.

California State Board of Education

Board Bylaws

ARTICLE I

Authority

The California State Board of Education is established in the Constitution of the State of California and empowered by the Legislature through the California *Education Code*.

ARTICLE II

Powers and Duties

The Board establishes policy for the governance of the state's kindergarten through grade twelve public school system as prescribed in the *Education Code*, and performs other duties consistent with statute.

ARTICLE III

Members

APPOINTMENT

Section 1. The State Board of Education consists of 11 members who are appointed by the Governor with the advice and consent of two-thirds of the Senate.

CC, Art. IX, Sec. 7
EC 33000 and 33000.5

TERM OF OFFICE

Section 2. (a) The term of office of the members of the Board is four years, except for the student member whose term is one year.

(b) Except for the student member, who serves a one-year term, terms expire on January 15 of the fourth year following their commencement. Members, other than the student member, continue to serve until the appointment and qualification of their successors to a maximum of 60 days after the expiration of their terms. If the member is not reappointed and no successor is appointed within that 60-day period, the member may no longer serve and the position is deemed vacant. The term of the student member begins on August 1 and ends on July 31 of the following year.

(c) If the Senate refuses to confirm, the person may continue to serve until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first.

(d) If the Senate fails to confirm within 365 days after the day the person first began performing the duties of the office, the person may not continue to serve in that office following the end of the 365-day period.

EC 33001; 33000.5
GC 1774

VACANCIES

Section 3. Any vacancy shall be filled by appointment by the Governor, subject to confirmation by two-thirds of the Senate. The person appointed to fill a vacancy shall hold office only for the balance of the unexpired term.

EC 33002

STUDENT MEMBER

Section 4. Finalists for the student member position shall be selected and recommended to the Governor as prescribed by law.

EC 33000.5

COMPENSATION AND EXPENSES

Section 5. Members of the Board shall receive their actual and necessary travel expenses while on official business. Each member shall also receive one hundred dollars ($100) for each day he or she is acting in an official capacity.

EC 33006
GC 11564.5

CONFLICT OF INTEREST CODE

Section 6. Board members shall file statements of economic interest as required by the Fair Political Practices Commission. The terms of a standard Conflict of Interest Code, adopted by the Commission and as may be amended, are incorporated by reference and constitute the Conflict of Interest Code of the Board.

2 CCR 18730
5 CCR 18600

ARTICLE IV
Officers and Duties

PRESIDENT, VICE PRESIDENT

Section 1. Officers of the Board shall be a president and a vice president. No member may serve as both president and vice president at the same time.

Section 2. (a) The president and vice president shall be elected annually in accordance with the procedures set forth in this section.

(b) Prior to the December regular meeting, letters of nomination for the offices of president and vice president for the forthcoming calendar year shall be submitted to the executive director. When a member submits a letter nominating another member for either office, it shall be understood that the member being nominated has been consulted and has agreed to serve if elected. Members interested in serving in either office may nominate themselves.

(c) At a time to be set aside for the purpose by the president at the December meeting, the executive director shall indicate the names placed in nomination in accordance with paragraph (b). The president shall then call for other nominations from the floor, including self-nominations, which shall then be in order and shall not require a second.

(d) From the names placed in nomination at the December meeting, along with any additional nominations from the floor subject to the conditions set forth in this paragraph, a president and a vice president shall be elected at the beginning of the January regular meeting each year, with the newly elected officers assuming office immediately following the election. No member may nominate himself or herself for the office of president or vice president at the January meeting, and any nomination for such office must be seconded if made at the January meeting.

(e) Six votes are necessary to elect an officer, and each officer elected shall serve for one year or until his or her successor is elected.

(f) If, in the Board's judgment, no nominee for the office of president or vice president can garner sufficient votes for election to that office at the January meeting, a motion to put the election over to a subsequent meeting is in order.

(g) In the event a vacancy occurs in the office of president or vice president during a calendar year, an election shall be held at the next meeting. Any member interested in completing the one-year term of an office that has become vacant may nominate himself or herself, but each nomination requires a second.

(h) The State Superintendent of Public Instruction shall preside only during the election proceedings for the office of president and for the conduct of any other business that a majority of the Board members may direct.

EXECUTIVE OFFICER

Section 3. The State Superintendent of Public Instruction shall be secretary and shall act as executive officer of the Board.

EC 33004

DUTIES OF THE PRESIDENT

Section 4. The president shall:

- serve as spokesperson for the Board;
- represent the position of the Board to the State Superintendent of Public Instruction;
- appoint members to serve on committees and as liaisons, as prescribed in these Bylaws, and as may be needed in his or her judgment properly to fulfill the Board's responsibilities;
- serve as ex officio voting member of the Screening Committee and any ad hoc committees, either substituting for an appointed member who is not present with no change in an affected committee's quorum requirement, or serving as an additional member with the affected committee's quorum requirement being increased if necessary, provided that in no case shall the service of the president as ex officio voting member increase the total voting membership of a committee to more than five;
- preside at all meetings of the Board and follow-up with the assistance of the executive director to see that agreed upon action is implemented;
- serve, as necessary, as the Board's liaison to the National Association of State Boards of Education, or designate a member to serve in his or her place;
- serve, or appoint a designee to serve, on committees or councils that may be created by statute or official order where required or where, in his or her judgment, proper carrying out of the Board's responsibility demands such service;
- determine priorities for expenditure of Board travel funds;
- provide direction for the executive director;
- direct staff in preparing agendas for Board meetings in consultation with the other members as permitted by law;
- keep abreast of local, state, and national issues through direct involvement in various conferences and programs dealing with such issues, and inform Board members of local, state, and national issues; and
- participate in selected local, state, and national organizations, which have an impact on public education, and provide to other members, the State Superintendent, and the staff of the Department of Education the information gathered and the opinion and perspective developed as the result of such active personal participation.

DUTIES OF THE VICE PRESIDENT

Section 5. The vice president shall:

- preside at Board meetings in the absence of the president;
- represent the Board at functions as designated by the president; and
- fulfill all duties of the president when he or she is unable to serve.

DUTIES OF COMMITTEE CHAIR

Section 6. The chair of the Screening Committee or any ad hoc committee shall:

- preside at meetings of the committee he or she chairs, except that he or she shall yield the chair to another committee member in the event he or she will be absent or confronts a conflict regarding any matter coming before the committee, and may yield the chair to another committee member for personal reasons; and

- in consultation with the president, other committee members, and appropriate staff, assist in the preparation of committee agendas and coordinate and facilitate the work of the committee in furtherance of the Board's goals and objectives.

DUTIES OF LIAISON OR REPRESENTATIVE

Section 7. A Board member appointed as a liaison or representative shall:

- serve as an informal (non-voting) link between the Board and the advisory body or agency (or function) to which he or she is appointed as liaison or representative; and
- reflect the position of the Board, if a position is known to him or her, on issues before the advisory body or agency (or within the function) to which he or she is appointed as liaison or representative and keep the Board appropriately informed.

DUTIES OF A BOARD MEMBER APPOINTED TO ANOTHER AGENCY

Section 8. The member shall:

- to every extent possible, attend the meetings of the agency and meet all responsibilities of membership; and
- reflect through his or her participation and vote the position of the Board, if a position is known to him or her, and keep the Board informed of the agency's activities and the issues with which it is dealing.

ARTICLE V
Meetings

REGULAR MEETINGS

Section 1. Generally, regular meetings of the Board shall be held on the Wednesday and Thursday preceding the second Friday of each of the following months: July, September, November, January, March, and May. However, in adopting a specific meeting schedule, the Board may deviate from this pattern to accommodate state holidays and special events. Other regularly noticed meetings may be called by the president for any stated purpose.

EC 33007

SPECIAL MEETINGS

Section 2. Special meetings may be called to consider those purposes specified in law if compliance with the 10-day notice would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

OPEN MEETINGS

Section 3. (a) All meetings of the Board, except the closed sessions permitted by law, and all meetings of Board committees, to the extent required by law, shall be open and public.

(b) All meetings shall conform to the *Bagley-Keene Open Meeting Act*, including requirements for notices of meetings, preparation and distribution of agendas and written materials, inspection of public records, closed sessions and emergency meetings, maintenance of records, and disruption of a public meeting. Those provisions of law which govern the conduct of meetings of the Board are hereby incorporated by reference into these Bylaws.

(c) Unless otherwise provided by law, meetings of any advisory body, committee or subcommittee thereof, created by statute or by formal action of the Board, which is required to advise or report or recommend to the Board, shall be open to the public.

GC 11120 et seq.

NOTICE OF MEETINGS

Section 4. (a) Notice of each regular meeting shall be posted at least 10 days prior to the time of the meeting and shall include the time, date, and place of the meeting and a copy of the meeting agenda.

(b) Notice of any meeting of the Board shall be given to any person so requesting. Upon written request, individuals and organizations wishing to receive notice of meetings of the Board will be included on the mailing list for notice of regular meetings.

SPECIAL MEETINGS (ADDITIONAL PROVISIONS)

Section 5. (a) Special meetings may be called by the president or by the secretary upon the request of any four members of the board for the purposes specified in law if compliance with the 10-day notice requirements would impose a substantial hardship on the board or if immediate action is required to protect the public interest.

(b) Notice of special meetings shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting. Notice shall also be provided to all national press wire services. Notice to the general public shall be made by placing it on appropriate electronic bulletin boards if possible.

(c) Upon commencement of a special meeting, the board shall make a finding in open session that giving a 10-day notice prior to the meeting would cause a substantial hardship on the board or that immediate action is required to protect the public interest. The finding shall be adopted by a two-thirds vote of the board or a unanimous vote of those members present if less than two-thirds of the members are present at the meeting.

EC 33008
GC 11125

EMERGENCY MEETINGS

Section 5. (a) An emergency meeting may be called by the president or by the secretary upon the request of any four members without providing the notice otherwise required in the case of a situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities and which is properly a subject of an emergency meeting in accordance with law.

(b) The existence of an emergency situation shall be determined by concurrence of six of the members during a meeting prior to an emergency meeting, or at the beginning of an emergency meeting, in accordance with law.

(c) Notice of an emergency meeting shall be provided in accordance with law.

GC 11125.5
EC 33008
EC 33010

CLOSED SESSIONS

Section 6. Closed sessions shall be held only in accordance with law.

GC 11126

QUORUM

Section 7. (a) The concurrence of six members of the Board shall be necessary to the validity of any of its acts.

EC 33010

(b) A quorum of any Board committee shall be a majority of its members, and a committee may recommend actions to the Board with the concurrence of a majority of a quorum.

ORDER OF BUSINESS

Section 8. The order of business for all regular meetings of the Board shall generally be:

- Call to Order
- Salute to the Flag
- Reorganization of the Board (if necessary)
- Approval of Minutes
- Communications

- Announcements
- Report of the Superintendent
- Reports of Board Ad Hoc Committee and Liaisons (as necessary)
- Ordering of the Agenda
- Consent Calendar
- Full Board Items
- Reports of Board Standing Committees
- President's Report
- Member Reports
- Adjournment

CONSENT CALENDAR

Section 9. (a) Non-controversial matters and waiver requests meeting established guidelines may be presented to the Board on a consent calendar.

(b) Items may be removed from the consent calendar upon the request of an individual Board member or upon the request of Department staff authorized by the State Superintendent of Public Instruction to submit items for consideration by the Board.

(c) Items removed from the consent calendar shall be referred to a standing committee or shall be considered by the full Board at the direction of the president.

ARTICLE VI

Committees and Representatives

SCREENING COMMITTEE

Section 1. A Screening Committee composed of no fewer than three and no more than five members shall be appointed by the president to screen applicants for appointment to Board advisory bodies and other positions as necessary; participate, as directed by the president, in the selection of candidates for the position of student Board member in accordance with law; and recommend appropriate action to the Board.

AD HOC COMMITTEES

Section 2. From time to time, the president may appoint ad hoc committees for such purposes as he or she deems necessary. Ad hoc committees shall remain in existence until abolished by the president.

REPRESENTATIVES

Section 3. From time to time, the president may assign Board members the responsibility of representing the State Board in discussions with staff (as well as with other individuals and agencies) in relation to such topics as assessment and accountability, legislation, and implementation of federal and state programs. The president may also assign Board members the responsibility of representing the Board in ceremonial activities.

ARTICLE VII

Public Hearings: General

SUBJECT OF A PUBLIC HEARING

Section 1. (a) The Board may hold a public hearing regarding any matter pending before it after giving the notice required by law.

(b) The Board may direct that a public hearing be held before staff of the Department of Education, an advisory commission to the Board, or a standing or ad hoc committee of the Board regarding any matter which is or is likely to be pending before the Board. If the Board directs that a public hearing be held before staff, then an audiotape of the public hearing and a staff-prepared summary of comments received at the public hearing shall be made available to the Board members in advance of the meeting at which action on the pending matter is scheduled.

5 CCR 18460
EC 33031
GC 11125

COPIES OF STATEMENTS

Section 2. A written copy of the testimony a person wishes to present at a public hearing is requested, but not required. The written copy may be given to appropriate staff in advance of or at the public hearing.

TIME LIMITS FOR THE PRESENTATION OF PUBLIC TESTIMONY

Section 3. At or before a public hearing, the presiding individual shall (in keeping with any legal limitation or condition that may pertain) determine the total amount of time that will be devoted to hearing oral comments, and may determine the time to be allotted to each person or to each side of an issue.

5 CCR 18463
EC 33031

WAIVER BY PRESIDING INDIVIDUAL

Section 4. At any time, upon a showing of good cause, the presiding individual may waive any time limitation established under Section 3 of this article.

5 CCR 18464
EC 33031

ARTICLE VIII

Public Hearings: School District Reorganization

SUBMISSION OF PROPOSALS AND PETITIONS

Section 1. A proposal by a county committee on school district organization or other public agency, or a petition for the formation of a new district or the transfer of territory of one district to another shall be submitted to the executive officer of the Board. The executive officer of the Board shall cause the proposal or petition to be:

- reviewed and analyzed by the California Department of Education;
- set for hearing before the Board (or before staff if so directed by the Board) at the earliest practicable date; and
- transmitted together with the report and recommendation of the Department of Education to the Board (or to the staff who may be directed by the Board to conduct the hearing) and to such other persons as is required by law not later than ten days before the date of the hearing.

CCR 18570

ARGUMENTS PRESENTED AT THE PUBLIC HEARING: ORIGINAL SUBMISSION

Section 2. At the time and place of hearing, the Board (or staff if so directed by the Board) will receive oral or written arguments on the proposal or petition. The presiding individual may limit the number of speakers on each side of the issue, limit the time permitted for the presentation of a particular view, and limit the time of the individual speakers. The presiding individual may ask that speakers not repeat arguments previously presented.

CCR 18571

RESUBMISSION OF THE SAME OR AN ESSENTIALLY IDENTICAL PROPOSAL OR PETITION

Section 3. If the same or an essentially identical proposal or petition has been previously considered by the Board, the documents constituting such a resubmission shall be accompanied by a written summary of any new factual situations or facts not previously presented. In this case, any hearing shall focus on arguments not theretofore presented and hear expositions of new factual situations and of facts not previously entered into the public record.

CCR 18572

STATEMENTS

Section 4. All statements are requested to be submitted to the Board (or to staff if so directed by the Board) in advance of the presentation. Statements are requested to be in writing and should only be summarized in oral testimony.

ARTICLE IX

Public Records

Public records of the Board shall be available for inspection and duplication in accordance with law, including the collection of any permissible fees for research and duplication.

GC 6250 et seq.

ARTICLE X

Parliamentary Authority

RULES OF ORDER

Section 1. Debate and proceedings shall be conducted in accordance with *Robert's Rules of Order (Newly Revised)* when not in conflict with rules of the Board and other statutory requirements.

Section 2. Members of the public or California Department of Education staff may be recognized by the president of the Board or other presiding individual, as appropriate, to speak at any meeting. Those comments shall be limited to the time determined by the president or other presiding individual. All remarks made shall be addressed to the president or other presiding individual. In order to maintain appropriate control of the meeting, the president or other presiding individual shall determine the person having the floor at any given time and, if discussion is in progress or to commence, who may participate in the discussion.

Section 3. All speakers shall confine their remarks to the pending matter as recognized by the president or other presiding individual.

Section 4. Public speakers shall not directly question members of the Board, the State Superintendent, or staff without express permission of the president or other presiding individual, nor shall Board members, the State Superintendent, or staff address questions directly to speakers without permission of the president or other presiding individual.

Section 5. The Chief Counsel to the Board or the General Counsel of the California Department of Education, or a member of the Department's legal staff in the absence of the Board's Chief Counsel, will serve as parliamentarian. In the absence of legal staff, the president or other presiding individual will name a temporary replacement if necessary.

ARTICLE XI

Board Appointments

ADVISORY BODIES

Section 1. Upon recommendation of the Screening Committee as may be necessary, the Board appoints members to the following advisory bodies for the terms indicated:

(a) Advisory Commission on Special Education. The Board appoints five of 17 members to serve four-year terms.

EC 33590

(b) Curriculum Development and Supplemental Materials Commission. The Board appoints 13 of 18 members to serve four-year terms.

EC 33530

(c) Child Nutrition Advisory Council. The Board appoints 13 members, 12 to three-year terms and one student representative to a one-year term. By its own action, the Council may provide for the participation in its meetings of non-voting representatives of interest groups not otherwise represented among its members, such as school business officials and experts in the area of physical education and activity.

EC 49533

(d) Advisory Commission on Charter Schools. The Board appoints eight members to two-year terms.

EC 47634.2(b)(1)
State Board of Education Policy 01-04

OTHER APPOINTMENTS

Section 2. On the Board's behalf, the president makes the following appointments:

(a) WestEd (Far West Laboratory for Educational Research and Development). Five individuals to serve three-year terms on the Board of Directors as follows:

- one representing the California Department of Education;
- two representing school districts in California; and
- two representing county offices of education in California.

JPA-FWL

(b) Trustees of the California State Summer School for the Arts. Two members, one of whom shall be a current member of the Board, for terms of three years.

EC 8952.5

(c) No Child Left Behind Liaison Team. Two members for terms not to exceed two years.

EC 52058.1

SCREENING AND APPOINTMENT

Section 3. Opportunities for appointment shall be announced and advertised as appropriate, and application materials shall be made available to those requesting them. The Screening Committee shall paper-screen all applicants, interview candidates as the Committee determines necessary, and recommend appropriate action to the Board.

ARTICLE XII

Presidential Appointments

LIAISONS

Section 1. The president shall appoint one Board member, or more where needed, to serve as liaison(s) to:

(a) The Advisory Commission on Special Education.

(b) The Curriculum Development and Supplemental Materials Commission.

(c) The National Association of State Boards of Education, if the Board participates in that organization.

(d) The Commission on Teacher Credentialing.

(e) The California Postsecondary Education Commission: one member to serve as the president's designee if the president so chooses, recognizing that no person employed full-time by any institution of public or private postsecondary education may serve on the commission.

EC 66901(d) and (h)

OTHER

Section 2. The president shall make all other appointments that may be required of the Board or that require Board representation.

ARTICLE XIII

Amendment to the Bylaws

These Bylaws may be amended at any regular meeting of the Board, provided that the amendment has been submitted in writing at the previous regular meeting.

ABBREVIATIONS

Abbreviations used in these Bylaws, citing Board authority, are:

CC	Constitution of the State of California
CCR	California Code of Regulations
EC	California *Education Code*
GC	California *Government Code*
CFR	Code of Federal Regulations
JPA-FWL	Joint Powers Agreement Establishing the Far West Laboratory for Educational Research and Development, originally entered into by the State Board of Education on February 11, 1966, and subsequently amended

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DATES OF ADOPTION AND AMENDMENT

Adopted	April 12, 1985
Amended	February 11, 1987
Amended	December 11, 1987
Amended	November 11, 1988
Amended	December 8, 1989
Amended	December 13, 1991
Amended	November 13, 1992
Amended	February 11, 1993
Amended	June 11, 1993
Amended	May 12, 1995
Amended	January 8, 1998
Amended	April 11, 2001
Amended	July 9, 2003

RECOMMENDATIONS FOR

CALIFORNIA STATE BOARD OF EDUCATION

COMMISSION MEMBERS

ADVISORY COMMISSION FOR CHARTER SCHOOLS (ACCS)

1	Barber, Vicki	County Superintendent
2	Bauer, Brian**	Charter School Principal
3	Davis, Gary	Charter School Parent
4	Kovacic, Kelly	Teacher
5	Porter, John	District Superintendent
6	Ryan, Mark	Charter School Administrator
7	Thomsen, Christopher	District Board Member
8	Washington, Curtis	Teacher

** Recommended Chair

ADVISORY COMMISSION FOR SPECIAL EDUCATION (ACSE)

1	Burness, Maureen	Special Education Consultant Total School Solution
2	Martinez, Susan	Executive Director, Special Education, San Diego Unified

State of California **State Board of Education**

ITEM ADDENDUM

DATE: July 12, 2011

TO: **MEMBERS, STATE BOARD OF EDUCATION**

FROM: Sue Burr, Executive Director
California State Board of Education

RE: Item No. 15

SUBJECT: STATE BOARD PROJECTS AND PRIORITIES. Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

RECOMMENDATION

The State Board of Education (SBE) staff recommends that the SBE approve the attached draft minutes for the July 2010, August 2, 2010, August 24, 2010, September 2010, November 2010, December 2010, January 2011, February 2011, March 2011, April 21, 2011, and May 2011, SBE meetings.

ATTACHMENT

Attachment 1: Draft minutes for the following SBE meetings:

- Attachment A: July 2010, SBE Meeting (38 Pages)
- Attachment B: August 2, 2010, SBE Meeting (17 Pages)
- Attachment C: August 24, 2010, SBE Meeting (6 Pages)
- Attachment D: September 2010, SBE Meeting (43 Pages)
- Attachment E: November 2010, SBE Meeting (21 Pages)
- Attachment F: December 2010, SBE Meeting (7 Pages)
- Attachment G: January 2011, SBE Meeting (19 Pages)
- Attachment H: February 2011, SBE Meeting (8 Pages)
- Attachment I: March 2011, SBE Meeting (16 Pages)
- Attachment J: April 21, 2011, SBE Meeting (15 Pages)
- Attachment K: May 2011, SBE Meeting (24 Pages)

State Board of Education
State Board of Education Board Room
July 14-15, 2010
Draft Minutes

Members Present
Ted Mitchell, President
Ruth Bloom, Vice President
Alan Arkatov
Benjamin Austin
Yvonne Chan
Greg Jones
David Lopez

Members Absent
James Aschwanden
Charlene Lee, Student Member
Johnathan Williams

Secretary and Executive Officer
Jack O'Connell, State Superintendent of Public Instruction

Principal Staff
Theresa Garcia, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Joseph Egan, Interim Legal Counsel, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Geno Flores, Chief Deputy Superintendent, California Department of Education (CDE)
Marsha Bedwell, General Counsel, CDE
Jaime Hastings, Associate Government Analyst, CDE

Call to Order
President Mitchell called the meeting to order at 9:16 a.m.

Salute to the Flag
Member Austin led the Board, staff, and audience in the Pledge of Allegiance

Announcements/Communications
President Mitchell announced that the Board would first meet in Closed Session and follow with Open Session at approximately 10:25 a.m.

CLOSED SESSION REPORT

Joseph Egan, Interim Legal Counsel for the State Board of Education reported that the Board did not take any action in Closed Session.

REPORT OF THE SUPERINTENDENT

State Superintendent of Public Instruction (SSPI) Jack O'Connell spoke on California's Race to the Top Phase II application process, and explained that the application was written through the perspective of the state's school districts, specifically led by seven school districts that focused on implementing systemic reform. He explained that finalists would be announced July 26, 2010, and if California were selected, a state delegation would meet with federal reviewers to provide an oral presentation August 9, 2010, in Washington D.C.

The SSPI reminded the board that under the California *Education Code*, it was required to adopt the Common Core Content Standards in mathematics and English-language arts by August 2, 2010.

Finally, SPPI O'Connell informed the board that he forwarded a letter to both the Governor and legislative leadership that explained the need for a statewide pre-kindergarten through university bond to be listed on the November 2010 ballot.

Item 1: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; Approval of minutes; Board Liaison Reports; and other matters of interest.

Board Liaison Assignments/Appointments
Member Bloom announced that the California State Summer School for the Arts hired Adrienne Luce to serve as its executive director.

Member Chan informed the board that the Advisory Commission on Special Education allocated a substantive portion of its meeting to address alternative means for the California High School Exit Examination for students with disabilities.

Member Lopez informed the board that the Early Learning Advisory Council (ELAC) had held three meetings since its formation. He explained that before California could apply for federal funding through the American Recovery and Reinvestment Act, the federal Head Start Act required states to create state

advisory councils. Member Lopez explained that the mission of the ELAC was to promote and enhance the development of young children across all domains, including promoting school preparedness. The Council's mission would be achieved through a coordinated, comprehensive, and high quality early care and education system throughout California for young children aged birth to school entry with access for children, families, and communities.

President Mitchell informed the board that both he and Member Arkatov who served as the board's testing liaisons had been working with CDE, Department of Finance (DOF), and Educational Testing Service (ETS) on the Standardized Testing and Reporting (STAR) contract renewal, and that additional information would be addressed during the board's discussion of Item 6. In addition, he informed the public that the SBE held a joint meeting with the California Community College Board of Governors on July 13, 2011, to discuss joint efforts for career and technical education; California's leadership in developing the Early Assessment Program (EAP) to determine students' college readiness; and demographic trends, which have placed increasing pressure on all segments of higher education.

Public Comment:
Public comment was received from Gladys Williams, California Teachers Association (CTA); and Juan Godinez, Los Angeles Unified School District (LAUSD) District Advisory Committee (DAC).

No action was taken on this item.

Item 2: 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.

The following individuals addressed the Board:

- Zella Knight, LAUSD, DAC, spoke to her concerns regarding the projected cuts to the McKinney-Vento Homeless Assistance Act given the increased need for these services.
- Juanita Arevalo, LAUSD, DAC, spoke to her concern regarding the proper use of parent centers within the LAUSD.
- Maria Medina, President, State Parents Advisory Council (SPAC), shared her concerns regarding the need for parental involvement at the state level.
- Bill Ring, Parent Collaborative, thanked the board for its continued support of public comment, and noted that the same policy was not practiced within his school district.

- Monica Cano, parent, asked the board to encourage migrant parental involvement at the state level, and asked the board to make thoughtful decisions for both Alisal and Greenfield school districts.
- Larry Carlin, CTA, asked the board to adhere to under the Bagley-Keene Open Meeting Act when posting board documents.
- Walter Richardson, LAUSD DAC, shared his concerns regarding the number of African American students enrolled in special education, and recommended that these students be reevaluated for proper placement.
- Juan Godinez, LAUSD, DAC, spoke to the importance of the sharing of best practices of parental involvement.
- Connie Williams, past President, California School Library Association, asked the board to agendize the Model School Library Standards for a future meeting.
- Penelope Glover, Atkinson, Andelson, Loya, Ruud, & Romo, Attorneys at Law, spoke in support of the Model School Library Standards.
- Martha Rowland, Sacramento City Unified School District, spoke in support of the Model School Library Standards.
- David Page, San Diego Unified School District, DAC, asked the board to provide guidance for the role of the DAC.

No action was taken on this item.

Item 3: Elementary and Secondary Education Act: Request for Release of Trustee and District Assistance and Intervention Team in the Coachella Valley Unified School District.

Presenter: Debbie Rury, Interim Director of the District & School Improvement Division, presented on this item.

Public Comment:
Public comment was received from Doug McRae, retired test publisher.

President Mitchell stated that based on the presentation and supporting documentation it was clear that as a result of the District Assistance and Intervention Team (DAIT) and leadership of the trustee, the school district had made a marked level of academic improvement.

ACTION: Member Lopez moved to approve CDE's recommendation to release the Trustee and the District Assistance and Intervention Team assigned to the Coachella Valley USD with the condition that the District and the County Office of Education execute an agreement that would stipulate future work in critical areas, and that the agreement be filed both with CDE and SBE. Member Chan

seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 4: Elementary and Secondary Education Act: Initial Trustee Report and Recommendations on Progress Made by Greenfield Elementary Union School District.

Presenter: Deborah Sigman, Deputy Superintendent of the Curriculum, Learning, and Accountability Branch, presented on this item.

Member Lopez informed the board that he had visited the parents of Greenfield, and was impressed by their dedication for the education of their children. After reading Trustee Martinez's report, he was confident the board had hired the right person for the job.

Public Comment: Public comment was not offered on this item.

ACTION: Member Lopez moved to approve Trustee Martinez's report and recommendations. Member Jones seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote.

Item 5: Elementary and Secondary Education Act: Initial Trustee Report and Recommendations on Progress Made by Alisal Union Elementary School District.

Presenter: Deborah Sigman, Deputy Superintendent of the Curriculum, Learning, and Accountability Branch, presented on this item.

Public Comment:
Public comment was received by Rosa Miller, parent, Alisal Union Elementary School District (UESD); Juvenal Ibarra, parent, Alisal UESD; Jose Ibarra, Alisal UESD; Maria Medina, President, SPAC; and Nancy Kotowski, Superintendent, Monterey County Office of Education.

President Mitchell thanked Trustee Franco for agreeing to serve as trustee at Alisal Elementary UESD, acknowledging the work being done there was challenging. Member Lopez also thanked Ms. Franco for the great work done in the short time she had served as trustee.

ACTION: Member Chan moved to approve Trustee Franco's report and recommendations. Member Bloom seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 8: California High School Exit Examination: Analysis and Consideration of Alternative Means for the California High School Exit Examination.

Presenter: Rachel Perry, Director of the Assessment, Accountability, & Awards Division, introduced this item before inviting the CAHSEE independent evaluator, Dr. Lauress L. Wise with the Human Resources Research Organization to speak to his organization's analysis of the AB 2040 Panel's proposed CAHSEE Performance Validation Process.

Public Comment:
Public comment was received from Lori Ring, parent; Doug McRae, retired test publisher; Walter Richardson, LAUSD DAC; Dick Bray, Superintendent, Tustin Unified School District and also speaking on behalf of ACSA; Pixie Hayward-Schickele, CTA; Michelle Britton Bass, AB 2040 Panel Member; Kristin Wright, Chair, Advisory Commission on Special Education (ACSE); and Jim Woodhead, member, ACSE.

Speaking in her role as board liaison to the Advisory Commission on Special Education and special education practitioner, Member Chan expressed her frustration that the education field was still waiting for a definitive answer as to how best to assist students requesting alternative means to the CAHSEE.

ACTION: Member Chan moved that the SBE work to implement an alternative means for all eligible students that would include the CDE's Tier I recommendation, and an analysis to measure equivalency scores between the California Standards Test (CST), the California Modified Assessment (CMA), and CAHSEE for all eligible students. Member Bloom seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Member Chan moved to declare that it is feasible to create alternative means by which eligible pupils with disabilities may demonstrate the same level of academic achievement required for passage of the high school exit examination. Member Bloom seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Member Chan moved that the adoption of regulations for alternative means is not feasible until an analysis to measure equivalency of the scores is completed, and therefore an extension of the January 1, 2011, commencement date for participation in alternative means will be postponed until July 1, 2012, because it is necessary for appropriate implementation of alternative means. Member Bloom seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Member Chan moved that the CDE, in consultation with board staff, create

emergency and permanent regulation packages extending the commencement date for participation in alternative means from January 1, 2011, until July 1, 2012, for action at the board's September 2010 meeting. Member Bloom seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Member Chan moved that the CDE, in consultation with board staff, create a plan to complete the measurement of the equivalency scores utilizing remaining AB 2040 and other available funds for action at the board's September 2010 meeting. Member Bloom seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Lopez was absent for the vote.

Member Austin moved that the SBE continue to analyze options for the cohort of students who have demonstrated success in California's K-12 school system but who have not been able to pass the standardized tests, pending the analysis and the results of Tier I. Member Chan seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Lopez was absent for the vote.

Item 14: Request for Budget Crisis Mitigating Circumstances Flexibility for Current Senate Bill 740 Funding Determination Period for California Virtual Academy at Kern, California Virtual Academy at Jamestown, California Virtual Academy at Sonoma, California Virtual Academy at Sutter, California Virtual Academy at San Mateo, California Virtual Academy at Kings, Desert Sands Charter High School, Vista Real Charter High School, Crescent View West Charter School, Antelope Valley Learning Academy, Mission View Public School, Sierra Charter School, Julian Charter School, and Pacific View Charter School.

Presenter: Beth Hunkapiller, Director of the Charter Schools Division, presented on this item.

Public Comment:
Public comment was received from Ken Burt, CTA; Dick Bray, Superintendent, Tustin USD and speaking on behalf of ACSA; Colin Miller, California Charter School Association; Jeff Rice, Association of Personalized Learning Schools & Services (APLUS+); Skip Hanson, representing Desert Sands Charter High School, Mission View Public School, Vista Real Charter High School, and Crescent View West Charter School; Jennifer Cauzza, Executive Director, Julian Charter School; Katrina Abston, California Virtual Academy; and Gina Campbell, Founding Director, Pacific View Charter School.

Following the concerns raised during public comment, which questioned the appropriate use of mitigation circumstances versus the board's regular waiver

process, the board engaged in a substantive discussion with CDE and SBE staff for guidance in clarifying the issues raised.

ACTION: Member Arkatov moved to defer action on Item 14 to the following business day. Member Austin seconded the motion. The board voted, by show of hands, 4-3 to approve the motion. The motion failed.

Yes Votes: Members Arkatov, Austin, Bloom, and Mitchell
No Votes: Members Chan, Jones, and Lopez

Member Jones moved to consider mitigating circumstances excluding the mitigation of teacher-to-pupil ratio. Member Lopez seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Member Bloom moved to approve the mitigating circumstances, excluding the mitigation of teacher-to-pupil ratios, for California Virtual Academy at Jamestown, California Virtual Academy at Sonoma, California Virtual Academy at Sutter, California Virtual Academy at San Mateo, and California Virtual Academy at Kings for a period of one year. Member Jones seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Member Chan moved to approve the mitigating circumstances, excluding the mitigation of teacher-to-pupil ratios, for Desert Sands Charter High School, Vista Real Charter High School, Crescent View West Charter School, Antelope Valley Learning Academy, and Mission View Public School for a period of one year. Member Bloom seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Member Chan moved to approve the mitigating circumstances for the 2009-10 school year, excluding the mitigation of teacher-to-pupil ratios, for Julian Charter School. Member Bloom seconded the motion. The board voted, by show of hands, 6-1, to approve the motion. President Mitchell voted against the motion.

*****PUBLIC HEARING*****

Item 16: Petition for Renewal of a Charter School Under the Oversight of the State Board of Education: Consideration of the Today's Fresh Start Charter School Petition, Which Was Denied by the Los Angeles County Board of Education.

Presenter: Michelle Ruskofsky, Administrator of the Charter Schools Division, introduced this item.

OPEN PUBLIC HEARING: 6:37 p.m.

CLOSE PUBLIC HEARING: 8:37 p.m.

Public Comment:
Public comment was received from Caroline Hunger, charter school consultant; Malaki Seku-Amen, National Association for the Advancement of Colored People; Maury Wills, board member, Today's Fresh Start Charter School (TFSCS); and Kara Hutchins, teacher, TFSCS.

ACTION: Member Jones moved to recommend that the SBE approve the appeal of the Today's Fresh Start Charter School renewal petition based on the CDE's conditions, and upon the condition that in the next Academic Performance Index (API) release, the school would have to meet the 50-point growth target schoolwide and for its reportable subgroups. Member Lopez seconded the motion. The board voted, by show of hands, 2-5, to approve the motion. The motion failed.

Yes Votes: Members Jones and Lopez
No Votes: Members Arkatov, Austin, Bloom, Chan, and Mitchell

*****END OF PUBLIC HEARING*****

*****PUBLIC HEARING*****

Item 19: Petition for Renewal of a Charter School Under the Oversight of the State Board of Education: Consideration of the Long Valley Charter School Petition, Which Was Denied by the Fort Sage Unified School District and the Lassen County Board of Education.

Presenter: Bonnie Galloway from the Charter Schools Division presented on this item.

OPEN PUBLIC HEARING: 8:43 p.m.

CLOSE PUBLIC HEARING: 9:12 p.m.

Public Comment:
Public comment was received from Lynn Hane, school board member and grandparent of student attending Long Valley Charter School (LVCS); Loretta Donahue, independent studies teacher, LVCS; and Colin Miller, California Charter School Association (CCSA).

Member Austin asked CDE staff to clarify whether Fort Sage USD provided any supporting rationale for its decision to deny the Long Valley Charter School

petition, and Beth Hunkapiller explained that the district did not provide a rationale with good cause for denying the charter petition despite LVCS's outperformance compared to surrounding schools within the district.

ACTION: Member Bloom moved to adopt CDE's recommendation to approve the petition to renew the Long Valley Charter School under the oversight of the SBE and to incorporate CDE's recommended provisions in its approval action. Member Austin seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

*****END OF PUBLIC HEARING*****

*****PUBLIC HEARING*****

Item 18: Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of the National Career Academy Petition, Which Was Denied by the Sacramento Unified School District and the Sacramento County Board of Education.

Presenter: Darrell Parsons from the Charter Schools Division presented on this item, and informed the board that both the CDE and the ACCS recommended that the board deny the petition to establish the National Career Academy under the oversight of the SBE.

OPEN PUBLIC HEARING: 9:42 p.m.

CLOSE PUBLIC HEARING: 9:44 p.m.

Public Comment: Public comment was not offered on this item.

ACTION: Member Chan moved to adopt CDE's recommendation to deny the petition to establish the National Career Academy under the oversight of the SBE. Member Bloom seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

*****END OF PUBLIC HEARING*****

*****PUBLIC HEARING*****

Item 17: Island Union Elementary Charter School District: Consideration of Petition to Renew District wide Charter.

Presenter: Darrell Parsons from the Charter Schools Division presented on this item.

OPEN PUBLIC HEARING: 9:51 p.m.
The board heard from Robin Jones, Superintendent, Island Union Elementary Charter School District.

CLOSE PUBLIC HEARING: 9:58 p.m.

Public Comment: Public comment was not offered on this item.

ACTION: Member Jones moved to adopt CDE's recommendation to renew the districtwide charter for the Island Union Elementary Charter School District for a five-year term ending on June 30, 2015. Member Lopez seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

*****END OF PUBLIC HEARING*****

*****PUBLIC HEARING*****

Item 20: Alvina Elementary Charter School District: Consideration of Petition to Renew District wide Charter.

Presenter: Bonnie Galloway from the Charter Schools Division presented on this item, and informed the board that both the CDE and ACCS voted unanimously to approve the charter school petition.

OPEN PUBLIC HEARING: 10:11 p.m.

The board heard from Mike Iribarren, Superintendent, Alvina Elementary Charter School District.

CLOSE PUBLIC HEARING: 10:17 p.m.

Public Comment: Public comment was not offered on this item.

ACTION: Member Bloom moved to adopt CDE's recommendation to approve the petition to renew the districtwide charter for the Alvina Elementary Charter School District. Member Lopez seconded the motion with CDE's recommended provisions. The board voted, by show of hands, 7-0 to approve the motion.

*****END OF PUBLIC HEARING*****

*****PUBLIC HEARING*****

Item 21: Request by the Lifeline Education Charter School to Extend Approval of its Charter under the Oversight of the State Board of Education for up to Two Years until June 30, 2012.

Presenter: Darrell Parsons and Bonnie Galloway from the Charter Schools Division presented on this item.

OPEN PUBLIC HEARING: 10:28 p.m.

The board heard from Jim Armstrong, Academic Consultant, Lifeline Education Charter School (LECS) and Paula DeGroat, Executive Director, LECS.

CLOSE PUBLIC HEARING: 10:44 p.m.

President Mitchell thanked the LECS representatives for agreeing with the board that not enough academic growth had taken place for the students attending this charter school, but emphasized that if the board were to approve the charter school petition, a discussion would need to take place that would address an alternative plan for the students, should the API growth targets not meet the board's expectations.

Public Comment:
Public comment was received from Colin Miller, CCSA; and Emi Johnson, Special Education Local Plan Area (SELPA) Director, El Dorado County Office of Education.

ACTION: Member Bloom moved to adopt CDE's recommendation to approve the request by the Lifeline Education Charter School (Lifeline), extend approval of its charter for up to two years with the condition that if Lifeline does not make its 2010 API growth targets, Lifeline must return to the ACCS in the fall of 2010. If the board granted a two-year extension, the extension would allow Lifeline to complete a full five-year term, ending June 30, 2012. Member Lopez seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

*****END OF PUBLIC HEARING*****

*****ADJOURNMENT OF THE DAY'S SESSION*****

President Mitchell adjourned the day's meeting at 10:54 p.m.

State Board of Education
State Board of Education Board Room
July 14-15, 2010
Draft Minutes

Thursday, July 15, 2010 – 9:00 a.m. ± Pacific Time
(Upon adjournment of Closed Session if held)
California Department of Education
1430 N Street, Room 1101
Sacramento, California

Members Present
Ted Mitchell, President
Ruth Bloom, Vice President
Alan Arkatov
Benjamin Austin
Yvonne Chan
Greg Jones
David Lopez

Members Absent
James Aschwanden
Charlene Lee, Student Member
Johnathan Williams

Call to Order
President Mitchell called the meeting to order at 9:15 a.m.

Salute to the Flag
Member Chan led the Board, staff, and audience in the Pledge of Allegiance.

Item 32: Open Enrollment Act—Approve the Finding of Emergency and Proposed Emergency Regulations for Additions to the *California Code of Regulations*, Title 5.

Presenter: Cindy Cunningham, Deputy Superintendent, P-16 Policy & Information Branch, presented on this item.

Public Comment:
Public comment was received from the Honorable Senator Joe Simitian; Monica Jones; parent volunteer and former site school council president; Ken Burt, CTA; Walter Richardson, LAUSD, DAC; Juan Godinez, LAUSD DAC; Patty Scripter and Suzan Solomon, California State Parent Teacher Association; Holly Jacobson, California School Boards Association (CSBA); Sherry Griffith,

Association of California School Administrators (ACSA); Dick Bray, Superintendent, Tustin USD; Bill Ring, LAUSD Parent Collaborative and Transparent; and Terry Anderson, representing Alhambra and Clovis USDs.

Member Bloom explained that while there could possibly be some initial confusion regarding the implementation of the proposed emergency regulations at the local level, this concern was ultimately outweighed by her belief that parents and students have the opportunity to move to another school if they so choose. Member Bloom emphasized that if a need to amend this law arose, which would take place the following year.

ACTION: Member Austin moved to adopt CDE's recommendation to approve the proposed emergency regulations. Member Lopez seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 33: Open Enrollment Act—Approve Commencement of the Rulemaking Process for Additions to the *California Code of Regulations*, Title 5.

Presenter: Cindy Cunningham, Deputy Superintendent, P-16 Policy & Information Branch, presented on this item.

Public Comment:
Public comment was received from Ken Burt, CTA; Bill Ring, LAUSD Parent Collaborative and Transparent; Walter Richardson, LAUSD DAC; Juan Godinez, LAUSD, DAC; Holly Jacobson, CSBA; Dick Bray, Superintendent, Tustin USD; and Sherry Griffith, ACSA.

President Mitchell applauded the suggestion of creating a workgroup, and asked that SBE and CDE staff work together to create one that would include relevant stakeholders in an effort to make the first public hearing as productive as possible. Member Lopez requested that the proposed workgroup include a strong contingency of parent organizations since parents would ultimately be impacted by the proposed regulations.

ACTION: Member Lopez moved to adopt CDE's recommendation to approve the methodology for calculating the 1,000 lowest-achieving schools as required by Senate Bill X5 4 and to take the following actions:

- Approve the Notice of Proposed Rulemaking;
- Approve the proposed regulations and Initial Statement of Reasons;

- Direct the CDE to commence the rulemaking process subject to technical changes made to the proposed Open Enrollment Act Emergency Regulations;

- Replace language referring to “1,000 low-achieving schools” to “Open Enrollment schools;” and

- Create a workgroup that would be comprised largely of parent groups.

Member Austin seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 34: Parent Empowerment—Approve the Finding of Emergency and Proposed Emergency Regulations for Additions to the *California Code of Regulations*, Title 5.

Member Austin announced that while he did not believe he had a conflict of interest under the legal definition, he wanted to nevertheless recuse himself from taking part in the Parent Empowerment conversation and vote given that he had been involved in the drafting, lobbying, and implementation of this law.

Presenter: Geno Flores, Chief Deputy Superintendent, presented on this item.

Following a substantive board discussion and hearing from members of the public, Member Bloom noted that parents had the right to make changes at their respective schools. Noting that the proposed regulations were not without flaws, she explained that she would support the regulations because an emergency existed for a large number of parents throughout the state who wanted to provide better educational options for their children.

President Mitchell explained that the emergency was warranted given the conditions in which a number of students attend school and created by parents acting on the law without any guidance. Moving forward with the emergency regulations would provide parents the needed guidance to follow the law and allow the board to address the residual issues of concern in the permanent regulations.

Member Chan spoke to her experiences as a teacher and administrator working with parents and stated that the only way she had found to engage parents was to provide them the opportunity to make decisions regarding their children’s education. Speaking to the creation of her conversion charter school, Member Chan explained that the conversion was made largely in part by concerned parents who felt there was an emergency to better educate their children. This emergency resulted in four new charter schools. Based on these experiences,

she stated that she would not stand in the way of parents wanting a better education for their children and would support the proposed emergency regulations.

Member Jones stated that when schools failed, it was the adults that failed the children, which qualified as an emergency. Member Jones stated that great change derived from the bottom up and that that was the case before them. Acknowledging the issues that still needed to be resolved in the regulations' package, Member Jones indicated that he would vote in support of the proposed regulations.

Public Comment:
Public Comment was received from Ken Burt, CTA; Bill Ring, LAUSD Parent Collaborative and Transparent; Zella Knight, LAUSD Parent Collaborative, Lydia Grant, parent; Pastor K.W. Tulloss; Pastor Frederick E. Howard, Southside Bethel Baptist Church, Los Angeles; Christina Johnson, parent, LAUSD; Walter Richardson, LAUSD DAC; Jackie Jones, parent, Westchester High School; Gabe Rose, Deputy Executive Director, Parent Revolution; Shirley Ford, Founding Member, Los Angeles Parents Union and Director of African American Affairs; Alberta Rocho, parent, LAUSD; Andie Corso, teacher, Sacramento City Unified School District; Juan Godinez, LAUSD, DAC; Patty Scripter, California State PTA; Sophia Wall, California State PTA; Holly Jacobson, CSBA; and Sherry Griffith, ACSA.

ACTION: Member Arkatov moved to: 1) approve the Finding of Emergency and Proposed Emergency Regulations for additions to the *California Code of Regulations*, Title 5; 2) direct the CDE to circulate the required Notice of Proposed Emergency Action; 3) submit the Emergency Regulations to the Office of Administrative Law for approval; 4) direct the Board President and Executive Director to work with CDE to create an advisory committee to begin work on the permanent regulations to be brought back to the board in September; and 5) direct SBE and CDE staff to continue to work together to clarify important issues including but not limited to the development of the list.

Member Lopez seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Austin recused himself from both the board discussion and vote.

Item 15: Charter Revocation Pursuant to California *Education Code* Section 47604.5(c) – Approve Commencement of 15-Day Public Comment Period for Proposed Changes to Proposed *California Code of Regulations,* Title 5, Section 11968.5.

Presenter: Lupita Cortez Alcala, Deputy Superintendent of the Government Affairs & Charter Development Branch, presented on this item.

Member Austin stated that the proposed regulations addressed what he believed to be a glaring problem for this board in that it did not have a strong history of holding low-performing charter schools accountable for low academic performance. Addressing the issue of the board having flexibility when hearing from low-performing charter schools, he stated that if the proposed regulations were approved, the board would still have the discretion whether to revoke the petition of a low-performing charter school as they could take into consideration a number of variables, some of which could help explain the charter's low academic performance.

Public Comment:
Public comment was received from Larry Carlin, CTA; Colin Miller, CCSA; Doug McRae, retired test publisher; Stephanie Farland, CSBA; Sherry Griffith, ACSA; Walter Richardson, LAUSD DAC; and Juanita Arevalo, LAUSD, DAC.

ACTION: Member Arkatov moved to adopt the CDE's recommendation with two technical changes: 1) change the language on Attachment 2, page 3 of 3, lines 18 through 20 to read: "…address the sustained low academic achievement and may include, but is not limited to, a plan to address any subgroups failing to make academic progress; and 2) corrective actions, which may include, but are not limited to, restructuring of the school's staffing or governance, et al. . ."

- Approve the proposed changes to the proposed regulations;

- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;

- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;

- If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's September 2010 agenda for action; and

- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Austin seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Lopez was absent for the vote.

Item 6: Standardized Testing and Reporting Program: Two-Year Extension of Educational Testing Service Contract.

Presenter: Deborah Sigman, Deputy Superintendent of the Curriculum, Learning, and Accountability Branch, presented on this item.

The board engaged in a substantive discussion in which it heard from and dialogued with CDE staff and John Oswald, Senior Vice President and General Manager of the Educational Testing Service, the state's current testing provider. Following the presentation, President Mitchell acknowledged that the CDE, because of its expertise and responsibility to monitor and manage this program, the State Superintendent understandably needed to be a part of the program, but that the contractual relationship with the state was ultimately with the board.

President Mitchell stated that he preferred the board act to approve an extension but also to designate the testing liaisons to work on behalf of the board with the CDE, the DOF, and ETS to work through the final scope of work to such an extent that the State Superintendent would be confident in signing off in his capacity to monitor this program.

Public Comment:
Public comment was received from Doug McRae, retired test publisher; Sherry Griffith, ACSA; and Juan Godinez, LAUSD DAC.

ACTION: Member Arkatov moved to approve the STAR contract extension with the caveat to develop a long-term strategic plan for two years with ETS, appoint the board testing liaisons and staff to work on behalf of the Board with the CDE, the DOF, and ETS to work out the final scope of work for the contract, and make the contract and budget available online to the public. Member Lopez seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 11: 2010–15 Federal Public Charter Schools Grant Program Request for Applications.

Presenter: Michelle Ruskofsky, Administrator of the Charter Schools Division, introduced this item.

Member Bloom stated that the dissemination of charter schools' best practices had not yet become a top priority for California or amongst charter schools, and that she would welcome the sharing of such practices. Ms. Ruskofsky responded

that while the dissemination of charter schools' best practices did not fall under this particular grant, the Charter Schools Division would begin preparing a separate Request for Applications (RFA) for board approval and that they would work with SBE staff and the board to develop it.

Public Comment: Public comment was not offered on this item.

ACTION: Member Chan moved to recommend that, contingent on the availability of federal funds, the SBE approve the 2010–15 Public Charter Schools Grant Program (PCSGP) RFA and direct the CDE, in consultation with the Executive Director of the SBE and/or the SBE charter school liaisons, to perform all necessary actions required, which would include making technical amendments to both the State Educational Agency (SEA) application and RFA, if necessary, and to finalize the RFA and the SEA application. Member Bloom seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Jones was absent for the vote.

Item 23: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs

Presenter: Debbie Rury, Interim Director of the District & School Improvement Division, and Lupita Cortez Alcala, Deputy Superintendent of the Government Affairs & Charter Development Branch, presented on this item.

Member Bloom asked for an update to the board's discussion addressing the collection of student and staff race and ethnicity data, and the status of a follow-up letter from State Superintendent O'Connell directed to school districts regarding third-party identification requirements. Deputy Superintendent Sigman explained that State Superintendent O'Connell wrote to school districts, prior to the board's direction, to direct them to refrain from using a third-party identification of students' race and ethnicity, and therefore went against the ED guidance, which complemented the board's desires as expressed at its January 2010 board meeting.

Deputy Superintendent Sigman noted that the board had agreed to submit the letter when the CDE submitted data to the ED, and that the Data Management Division was currently in the process of preparing an item that would be coming to the boards, and CDE staff had been working with both the executive director and President Mitchell to finish the letter.

Public Comment:
Public comment was received from Juan Godinez, LAUSD DAC.

No action was taken on this item.

Item 25: Request for Waivers Under Title I, Part A Section 9401 of the Elementary and Secondary Education Act.

Presenter: Debbie Rury, Interim Director of the District & School Improvement Division, presented on this item.

Public Comment:
Public comment was received from Juan Godinez and Walter Richardson, LAUSD DAC.

President Mitchell acknowledged the frustration shared by some board members who were against the SBE applying for a waiver from the U.S. Department of Education (ED). He was also aware that some teachers released from employment were now serving as SES providers and tutors to the very students these previous teachers had taught while in Program Improvement schools. Member Bloom followed up by stating that a number of SES providers hired some teachers who had been fired for poor performance.

ACTION: Member Bloom moved that the SBE not apply for a waiver from the U.S. Department of Education that would allow all interested Local Education Agencies (LEA) identified for program improvement or corrective action to serve as Supplemental Educational Services (SES) providers pursuant to 34 Code of Federal Regulations 200.47(h). Member Austin seconded the motion. The board voted, by show of hands, 4-2 to approve the motion. Member Chan was absent for the vote. The motion failed.

Yes Votes: Members Arkatov, Austin, Bloom, and Jones
No Votes: Members Lopez and Mitchell

Member Bloom moved that the SBE adopt CDE's staff recommendation to request a waiver from the ED for the 2010–11 school year that would provide flexibility to an LEA to offer SES to eligible students in Title I schools in year one of program improvement (a year earlier than the federal law allows) in addition to offering public school choice options to students in those schools and to count the costs of providing SES to those students toward meeting the LEAs' 20 percent obligation. Member Austin seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 28: Elementary and Secondary Education Act: Approval of Additional Providers to the 2010–2011 State Board of Education-Approved Supplemental Educational Services Provider List Based on Appeal.

Presenter: Debbie Rury, Interim Director of the District & School Improvement Division, presented on this item.

Public Comment:
Public comment was received from Juan Godinez, LAUSD DAC; Claudel Kennix, Basic Learning Skills; Derrell Roberts, Roberts Development Center; representatives for the Home-House of Media and Education; and Walter Richardson, LAUSD DAC.

President Mitchell stated that in the years that he had worked as a board member with CDE staff on this issue, the capacity of the CDE to ascertain the effectiveness of the SES providers had grown considerably, and that as a result the SES provider community had responded accordingly.

ACTION: Member Bloom moved to approve 16 additional SES providers, based on appeal of the 2010 RFA for a two-year period beginning July 1, 2010, through June 30, 2012. Member Jones seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 7: California English Language Development Test: Computation of the Overall Score and the English Proficient Level for Kindergarten and Grade One Students with the Inclusion of Reading and Writing Assessments.

Presenter: Rachel Perry, Director of the Assessment, Accountability, & Awards Division, presented on this item.

While Member Chan had been vocal in complaining about having kindergarten students take the California English Language Development Test (CELDT), she would now support the CDE's recommendation to modify the calculation for the overall score for kindergarten and grade one (K-1) to include reading and writing weighted at five percent each, and encouraged her fellow board members to also support the CDE's recommendation.

Public Comment:
Public comment was received by Doug McRae, retired test publisher.

ACTION: Member Austin moved to approve CDE staff recommendation to: 1) modify the calculation for the overall score for kindergarten and grade one (K–1) to include reading and writing weighted at five percent each, and reduce the weight for listening and speaking from 50 to 45 percent each, and 2) modify the definition of the English proficient level for K–1 students on the CELDT, to require an overall score of Early Advanced or Advanced, with the domain scores for listening and speaking at the Intermediate level or above. The domain scores for reading and writing would not need to be at the Intermediate level. Member Chan

seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote.

Item 36: Request for Approval of Los Angeles County Office of Education Charter Special Education Local Plan Area.

Public Comment:
Public comment was received from Kim Hopko, SELPA Director, Los Angeles County Office of Education; and Colin Miller, CCSA.

Referencing the importance of the Special Education/Charter workgroup in helping to address issues of concern for the charter/special education community, Member Chan stated that the board's action on this item would reflect continued support for the workgroup.

ACTION: Member Bloom moved to have the SBE approve the Los Angeles County Office of Education (LACOE) Special Education Local Plan Area (SELPA) local plan for charter schools LEA membership only, and subject to the following conditions:

- LACOE must submit a revised local plan to identify charter school LEA members pursuant to California *EC* Section 56195
- The LACOE SELPA local plan must meet all statutorily required elements
- The LACOE SELPA local plan must assure students with disabilities receive a free and appropriate public education
- Delegate final approval of the LACOE SELPA local plan to the SSPI upon receipt of documents fulfilling the conditions for approval.

Member Chan seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

CONSENT CALENDAR

The following items were proposed for the regular consent calendar: 13, 22, and 30.

Public Comment: Public comment was not offered on the consent calendar.

ACTION: Member Lopez moved to approve the consent calendar. Member Chan seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 13: Consideration of Requests for Determination of Funding Rates as Required for Nonclassroom-based Charter Schools.

Item 22: Exclusion of the Briggs, Mupu, and Santa Clara Elementary School Districts from the Proposed Santa Paula School District Unification in Ventura County.

Item 30: Legislative Update, Including, but not Limited to, Information on the 2009-10 Legislative Session.

END OF CONSENT CALENDAR

WAIVER REQUEST CALENDAR

Item WC-21
Subject: Request by Napa Valley Unified School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Pueblo Vista Elementary School (requesting 24:1 ratio on average in grades four through eight).
Waiver Number: 44-3-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

This item was withdrawn at the request of the school district.

WAIVER REQUEST CONSENT MATTERS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in the California *Education Code* or in the *California Code of Regulations*.

The following agenda items were proposed for approval based on CDE's recommendations on the waiver consent calendar: WC-8, WC-12 through WC-18, WC-22 through WC-24, WC-26 through WC-28, and WC-30.

Presenter: Judy Pinegar of the Waiver Office presented on the waiver request consent calendar.

Public Comment: Public comment was not offered on the waiver request consent calendar.

ACTION: Member Bloom moved to approve the waiver consent calendar. Member Lopez seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item WC-8
Subject: Request by Central Elementary School District to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the maximum to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 28-5-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-12
Subject: Request by Cabrillo Unified School District for Half Moon Bay High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-172-2010
(Recommended for APPROVAL)

Item WC-13
Subject: Request by Durham Unified School District for Durham High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-341-2010
(Recommended for APPROVAL)

Item WC-14
Subject: Request by Health Sciences High and Middle College Charter School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-186-2010
(Recommended for APPROVAL)

Item WC-15
Subject: Request by Lakeport Unified School District for Clear Lake High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).

Waiver Number: Fed-187-2010
(Recommended for APPROVAL)

Item WC-16
Subject: Request by The School of Arts and Enterprise Charter for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-21-2010
(Recommended for APPROVAL)

Item WC-17
Subject: Request by Shoreline Unified School District for Tomales High Schools for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-20-2010
(Recommended for APPROVAL)

Item WC-18
Subject: Request by Sierra-Plumas Joint Unified School District for Loyalton and Downieville High Schools for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-19-2010
(Recommended for APPROVAL)

Item WC-22
Subject: Request by Tehama County Office of Education to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance for an extended school year (summer school) for special education students.
Waiver Number: 12-5-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply.

Item WC-23
Subject: Request by Simi Valley Unified School District to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Allison Bellefontaine to continue to provide services to students under a remediation plan to complete those minimum qualifications.
Waiver Number: 23-3-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL)

Item WC-24

Subject: Request by Contra Costa SELPA under the authority of California *Education Code* Section 56101 to waive *Education Code* Section 56366.1(h), the August 1 through October 31, timeline on annual certification renewal application for La Cheim, a Nonpublic School.
Waiver Number: 52-4-2010
(Recommended for APPROVAL)

Item WC-26
Subject: Request by Pixley Union Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Sonia Malingen is assigned at Pixley Elementary School and Pixley Middle School.
Waiver Number: 54-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-27
Subject: Request by Poway Unified School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Nancy Gross is assigned at Stone Ranch Elementary School, and Diana Clark is assigned at Highland Ranch Elementary School.
Waiver Number: 50-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-28
Subject: Request by Santa Paula Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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 Ferris is assigned at Barbara Webster School.
Waiver Number: 41-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-30
Subject: Request by Santa Rita Union Elementary Union School District to waive the State Testing Apportionment Information Report and Certification deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test.
Waiver Number: 22-4-2010
(Recommended for APPROVAL)

END OF WAIVER REQUEST CONSENT MATTERS

ITEMS PULLED OFF THE WAIVER REQUEST CONSENT CALENDAR

Item WC-1
Subject: Request by Bayshore Elementary School District for Kaplan Academy of California – San Francisco to waive *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (3 tracks: 175 days, one site).
Waiver Number: 34-4-2010
(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply.

Item WC-2
Subject: Request by Corcoran Joint Unified School District for Kaplan Academy of California – Central California to waive *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (3 tracks: 175 days, one site).
Waiver Number: 35-4-2010
(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply.

Item WC-3
Subject: Request by Mountain Empire Unified School District for Kaplan Academy of California – San Diego to waive *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (3 tracks: 175 days, one site).
Waiver Number: 25-4-2010
(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply.

Item WC-4
Subject: Request by Tracy Joint Unified School District for Kaplan Academy of California – North Central California to waive *California Code of Regulations*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (3 tracks: 175 days, one site).
Waiver Number: 18-5-2010
(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply.

Presenter: Judy Pinegar of the Waiver Office presented on this item.

Public Comment:
Public comment was received from Ken Burt, CTA.

ACTION: Member Bloom moved to approve WC-1 through WC-4 with CDE staff recommendations. Member Chan seconded the motion. The board voted, by show of hands, 6-0 to approve the motion.

PROPOSED WAIVER CONSENT MATTERS

The following waiver items on the Non-consent Agenda were proposed for consent: W-1, W-3 through W-8, W-10, W-11, and W-13 through W-26.

Presenter: Judy Pinegar of the Waiver Office presented on these waiver requests.

Public Comment: Public comment was not offered on these waiver requests.

ACTION: Member Chan moved to approve the proposed waiver request consent items W-1, W-3 through W-8, W-10, W-11, and W-13 through W-26 with CDE staff recommendations. Member Jones seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote.

Item W-1
Subject: Request by Banta Elementary School District to waive California *Education Code* Section 41402(a), the requirement which sets the ratio of administrators to teachers for elementary schools at nine for every 100 teachers. Banta Elementary School District would like to continue to have two full-time administrators with 14 teachers.
Waiver Number: 63-2-2010
(Recommended for APPROVAL WITH CONDITIONS)
CLASS SIZE PENALTIES (Over Limit on Grades 4-8)

Item W-3
Subject: Request by Chico Unified School District for a waiver of California *Education Code* Section 48661(a) to permit the collocation of Academy for Change Community Day School and the Center for Alternative Learning Opportunity School at the Fair View Continuation School campus.
Waiver Number: 53-3-2010
(Recommended for APPROVAL)

Item W-4
Subject: Request by Victor Valley Union High School District for a waiver of California *Education Code* Section 48661(a) to permit the collocation of the district Community Day School on the same site with Goodwill High School, a continuation high school, at the Goodwill Education Center.
Waiver Number: 26-4-2010

(Recommended for APPROVAL)

Item W-5
Subject: Request by Baker Valley Unified School District for a waiver of portions of California *Education Code* sections 48660 and 48916.1(d) to permit a community day school to serve students in grades three through six with students in grades seven through twelve.
Waiver Number: 40-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-6
Subject: Petition request under California *Education Code* sections 60421(d) and 60200(g) by Los Angeles County Office of Education to purchase specified non-adopted instructional materials for severely disabled children using Instructional Materials Funding Realignment Program monies.
Waiver Number: 17-5-2010
(Recommended for APPROVAL)

Item W-7
Subject: Request by Orland Joint Unified School District under the authority of California *Education Code* Section 46206(a) to waive *Education Code* Section 46201(d), the Longer Day Incentive Program audit penalty for offering less instructional time in the 2009-10 fiscal year than the state minimum set in 1986-87 at Orland High School for students in grades nine through twelve (shortfall of 1,225 minutes).
Waiver Number: 51-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-8
Subject: Request by Paradise Unified School District under the authority of California *Education Code* Section 46206 to waive *Education Code* Section 46201(d), the Longer Day and Year Incentive Program audit penalty for offering less instructional time in the 2008-09 fiscal year than the district offered in 1982-83 at Pine Ridge School for students in grades one through eight (shortfall of 72 minutes).
Waiver Number: 26-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-10
Subject: Request by Vacaville Unified School District under the authority of California *Education Code* Section 46206 to waive *Education Code* Section 46200(c) audit penalty for offering less instructional time in the 2008-09 fiscal year at Padan Elementary, and Browns Valley Elementary for students in grades one through six (shortfall of two days).
Waiver Number: 72-2-2010

(Recommended for APPROVAL WITH CONDITIONS)

Item W-11
Subject: Request by Dunsmuir Joint Union High School District to waive a portion of California *Education Code* Section 35330(d) to authorize expenditure of school district funds for students to travel to Oregon to attend curricular and extra curricular trips/events and competitions.
Waiver Number: 23-4-2010
(Recommended for APPROVAL) *EC* 33051(b) will apply.

Item W-13
Subject: Request by Fountain Valley Elementary School District to waive portions of California *Education Code* sections 17466, 17472, 17473, 17474, and 17475, specific provisions for sale and lease of surplus property. Approval of the waiver would allow the district to sell two pieces of property using a broker and a "request for proposal" process, thereby maximizing the proceeds from the sale. The district properties for which the waiver is requested are the Lamb Property and the Wardlow Property, both located in Huntington Beach.
Waiver Number: 23-5-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-14
Subject: Request by Fowler Unified School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.
Waiver Number: 6-5-2010
(Recommended for APPROVAL)

Item W-15
Subject: Request by Southern Trinity Joint Unified School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to reduce the number of governing board members from seven to five.
Waiver Number: 46-4-2010
(Recommended for APPROVAL)

Item W-16
Subject: Request by Dunsmuir Joint Union High School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council with a reduced number and composition to function for two small schools, Dunsmuir High School and Dunsmuir Community Day School.
Waiver Number: 22-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-17
Subject: Request by Flournoy Union Elementary School District under the authority of the California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Flournoy Elementary School.
Waiver Number: 7-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-18
Subject: Request by Mineral Elementary School Disrict under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Mineral Elementary School.
Waiver Number: 52-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-19
Subject: Request by Taft Union High School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small continuation high school, Buena Vista Continuation High School.
Waiver Number: 50-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-20
Subject: Request by Temple City Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small continuation high school, Dr. Doug Sears Learning Center.
Waiver Number: 33-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-21
Subject: Request by Shandon Joint Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for four small schools.
Waiver Number: 24-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-22

Subject: Request by South East Consortium SELPA to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2009-10 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 37-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-23
Subject: Request by Placer County Office of Education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Monica Egan to continue to provide services to students under a remediation plan to complete those minimum qualifications.
Waiver Number: 21-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-24
Subject: Request by Siskiyou County Office of Education to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance for an extended school year (summer school) for special education students.
Waiver Number: 60-4-2010
(Recommended for APPROVAL WITH CONDITIONS) *EC* 33051(b) will apply.

Item W-25
Subject: Request by Old Adobe Union School District to waive a portion of California *Education Code* Section 44908, the requirement that a probationary employee who, in any one school year, has served for at least seventy-five percent of the number of days the regular schools of the district in which he is employed are maintained shall be deemed to have served a complete school year.
Waiver Number: 61-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-26
Subject: Request by 233 local educational agencies to waive up to six types of requirements pertaining to Title I, Part A of the Elementary and Secondary Education Act relating to the American Recovery and Reinvestment Act allocations for the
2009–10 fiscal year only.
Waiver Number: See attached list.
(Recommended for APPROVAL)

END OF PROPOSED WAIVER CONSENT MATTERS

WAIVER REQUEST NON-CONSENT (ACTION) MATTERS

The following items were not heard by the SBE.

Item WC-5
Subject: Request by San Marino Unified School District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376(a), (c), and (d) and 41378(a) through (e), relating to class size penalties for grades kindergarten through three. For kindergarten, the maximum overall class size average is 31 to one with no class larger than 33. For grades one to three, the maximum overall class size average is 30 to one with no class larger than 32. The district requests to increase its maximum overall average to 34 and its maximum individual class size to 35 to one for grades kindergarten through three, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 61-3-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-6
Subject: Request by Lowell Joint School District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* Section 41376(a),(c), and (d), relating to class size penalties for grades one through three. The maximum overall class size average is 30 to one with no class larger than 32. The district requests to increase its maximum overall average and individual class size to 34, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 33-4-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-7
Subject: Request by Berryessa Union Elementary School District to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the maximum to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 24-5-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-9
Subject: Request by El Segundo Unified School District to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum

is an average of 29.9 to one and the district requests to increase the maximum to 36 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 27-5-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-10
Subject: Request by Huntington Beach City Elementary School District to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an overall average of 29.9 to one and the district requests to increase the maximum to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 58-4-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-11
Subject: Request by San Marino Unified School District to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an overall average of 30.1 to one and the district requests to increase the maximum to 39 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 62-3-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-19
Subject: Request by Oakland Charter High School under the authority of California *Education Code* Section 47612.6(a) to waive *Education Code* Section 47612.5 (c) the audit penalty for offering less instructional time in the 2008-09 fiscal year at for students in grades nine through eleven (shortfall of 2,640 minutes).
Waiver Number: 11-4-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-20
Subject: Request by Meadows Union Elementary School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Meadows Elementary School (requesting 20.4:1 ratio on average in grade five).
Waiver Number: 36-3-2010

(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-25
Subject: Request by Eastside Union Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Dawn Fox is assigned at Columbia Elementary School.
Waiver Number: 24-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-29
Subject: Request by Lone Pine Unified School District to waive California *Education Code* Section 49550 the requirement that needy pupils be provided a nutritionally adequate free or reduced-price meal during each school day (State Meal Mandate) including classes conducted on Saturdays.
Waiver Number: 25-3-2010
(Recommended for APPROVAL) *EC* 33051(b) will apply.

Item W-2
Subject: Request by Oceanside Unified School District to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an overall average of 29.9 to one and the district requests to increase the maximum to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 51-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-9
Subject: Request by Academia Avance Charter School under the authority of California *Education Code* Section 47612.6(a) to waive *Education Code* Section 47612.5 (c) the audit penalty for offering less instructional time in the 2007-08 fiscal year for students in grade nine (shortfall of 4,300 minutes).
Waiver Number: 48-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-12
Subject: Request by Anaheim Union High School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce their class sizes by an average of five students per class by the end of the 2010–11 school year at Anaheim High School (requesting 23:1 ratio on average in grade nine).

Waiver Number: 62-4-2010
(Recommended for DENIAL)

Item W-27
Subject: Request by Rio Dell Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Jennifer Cooper is assigned at Eagle Prairie Elementary School and Monument Middle School.
Waiver Number: 26-5-2010
(Recommended for DENIAL)

Re-Open Item 1: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; Approval of minutes; Board Liaison Reports; and other matters of interest.

Approval of Minutes
Acknowledging public comments made regarding the specificity of the board's meeting minutes and that particular points of view be recorded, President Mitchell stated that he endorsed those comments for recordkeeping but emphasized that the meeting minutes could not record every remark made by every individual and instead reflected the board's actions taken at the board meetings. President Mitchell reminded the board and members of the public that the board archives each board meeting into compact discs, which are available to the public.

Public Comment:
Public comment was received from Ken Burt, CTA.

ACTION: Member Chan moved to approve the January 5-7, March 10-11, and March 30, 2010, meeting minutes. Member Austin seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote.

Item 35: Approval of 2009-10 Consolidated Applications.

Presenter: Keric Ashley, Director of the Data Management Division, presented on this item.

Public Comment: Public comment was not offered on this item.

President Mitchell stated that in an abundance of caution that he and Member Austin did not feel that they should participate in a vote of items where Locke or Green Dot Public Schools were named exclusively, and requested that Locke Union High School be removed from the 2009-10 Consolidated Applications. Member Austin explained that while he had not worked for Green Dot Public Schools for a number of years he concurred with President Mitchell's statements. President Mitchell informed the board and members of the public that he served on the board of Green Dot Public Schools, and asked that the school removed be brought back to a future meeting where the board would have a quorum in which to take a vote.

ACTION: Member Lopez moved to approve the 2009-10 Consolidated Applications (ConApps) submitted by LEAs in Attachment 1, excluding Locke High School. Member Chan seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote.

Item 12: Assignment of Numbers for Charter School Petitions.

Presenter: Beth Hunkapiller, Director of the Charter Schools Division, presented on this item, and explained that while the assignment of numbers for the presented charter school petitions would normally be placed on the Consent calendar, she stated that the CDE recommended that the RP Bridge Program should receive conditional approval contingent on the review of the school's location by CDE staff.

Public Comment: Public comment was not offered on this item.

President Mitchell requested the removal of the schools identified as Green Dot Public Schools: Animo Charter Jefferson Middle School and Animo Westside Charter Middle School, and asked that the schools removed be brought back to a future meeting where the board would have a quorum in which to take a vote.

ACTION: Member Chan moved to recommend that the SBE assign charter numbers to the charter schools identified on the attached list except for Animo Charter Jefferson Middle School and Animo Westside Charter Middle School, and assign a conditional approval for the RP Bridge Program based on the review of the school's location by CDE staff. Member Lopez seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote.

Item 27: Elementary and Secondary Education Act: Approve Local Educational Agency Plans, Title I, Section 1112.

Presenter: Debbie Rury, Interim Director of the District & School Improvement Division, presented on this item.

Public Comment: Public comment was not offered on this item.

ACTION: Member Chan moved to approve the five specific LEA Plans listed in Attachment 1, with the exception of Alain Leroy Locke Charter High School. Member Bloom seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote.

****ADJOURNMENT OF DAY'S SESSION****

President Mitchell adjourned the meeting at 5:20 p.m.

*****ADJOURNMENT OF MEETING*****

State Board of Education
State Board of Education Board Room
August 2, 2010
Draft Minutes

Members Present
Ted Mitchell, President
Ruth Bloom, Vice President
Alan Arkatov
Jim Aschwanden
Benjamin Austin
Yvonne Chan
Greg Jones
David Lopez
Johnathan Williams

Secretary and Executive Officer
Jack O'Connell, State Superintendent of Public Instruction

Principal Staff
Nicolas Schweizer, Executive Director, State Board of Education (SBE)
Angela Botellino, Interim Legal Counsel, SBE
Theresa Garcia, Consultant, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Geno Flores, Chief Deputy Superintendent, California Department of Education (CDE)
Marsha Bedwell, General Counsel, CDE
Jaime Hastings, Associate Government Analyst, CDE

Call to Order
President Mitchell called the meeting to order at 10:06 a.m.

Salute to the Flag
Member Williams led the board, staff, and audience in the Pledge of Allegiance.

Announcements/Communications
President Mitchell announced that the board would begin its meeting in Closed Session.

CLOSED SESSION REPORT

President Mitchell reported that during the closed session, the SBE accepted with reluctance, the resignation of Theresa Garcia as Executive Director of the SBE and appointed Nicolas Schweizer as the new Executive Director. President Mitchell thanked Mr. Schweizer for his willingness to serve and Ms. Garcia for her service to the SBE and the education community of California. President Mitchell announced that Ms. Garcia had accepted a position in the Governor's Office of the Chief Information Office (OCIO) where she would use her education policy expertise, focusing on the use of technology in public education.

REPORT OF THE SUPERINTENDENT

State Superintendent of Public Instruction (SSPI) Jack O'Connell updated the board as to the progress of the state's Race to the Top Phase II application, which would fund systemic reform for public education. SSPI O'Connell announced that California was selected as a finalist and explained that all state finalists were invited to appoint delegate representatives to meet with the ED review panel in Washington, D.C. next week, with winners announced in September.

SSPI O'Connell informed the board that the federal Charter Schools Program grant was successful, and noted that the ED was particularly impressed with California's application. The purpose of the grant, O'Connell explained, was to increase understanding of charter schools and to expand the number of high quality charter schools available to students across the nation.

Finally, SSPI O'Connell informed the board that the CDE would provide a new option on the CDE Web site, the SSPI's Analysis, which would address relevant board items, the goal being to provide greater transparency to the education field.

Item 1: STATE BOARD PROJECTS AND PRIORITIES: Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; board policy; Approval of minutes; Board Liaison Reports, and other matters of interest.

Report on behalf of the Governor
Kathy Radtkey-Gaither, Undersecretary of Education, Office of the Secretary of Education, spoke on behalf of Governor Schwarzenegger to thank Ms. Garcia for her service to the State Board of Education, and welcome her to her new position

with the OCIO. Undersecretary Radtkey-Gaither congratulated Nicolas Schweizer to his appointment.

Echoing SSPI O'Connell's comments regarding the Race to the Top Phase II application, Undersecretary Radtkey-Gaither informed the board that while the work was largely leveraged by seven superintendents, it was ultimately supported by approximately 100 school districts and 200 charter schools representing nearly 1.8 million students.

Finally, Undersecretary Radtkey-Gaither applauded the work of the California State Academic Content Standards Commission and encouraged the board to adopt the Commission's presented recommendations.

Public Comment: Public comment was not offered on this item.

No action was taken on this item.

Item 3: Consideration of the California Academic Content Standards Commission's Recommendation to Adopt the Common Core Standards, Including California Specific Standards.

Presenter: Deborah Sigman, Deputy Superintendent of the Curriculum, Learning, and Accountability Branch, presented on this item, and introduced Sue Stickel, Assistant Superintendent of Curriculum and Intervention, Sacramento County Office of Education, and project director of the California State Academic Content Standards Commission (Commission), and Greg Geeting, chair of the Commission.

Public Comment:
Public comment was received from Arun Ramanathan, EdTrust-West, Shelley Kriegler, Center for Math & Teaching; Scott Farrand, California State University Sacramento; Doug McRae, consultant; Kathlan Latimer, California Mathematics Council; Bill Evers, Stanford University; Juan Godinez, Los Angeles Unified School District (LAUSD) District Advisory Council (DAC); Pixie Hayward-Schickele, California Teachers Association (CTA); Dan Vogel, Vice President, CTA; Martha Zaragoza-Diaz, California Association for Bilingual Education (CABE) and Californians Together; Lauri Burnham Massey, CABE; Shelly Spiegel Coleman, Californians Together; Alicia Moran and Harold Boyd Jr., United Teachers of Los Angeles (UTLA); Barbara Flores, Alliance for a Multilingual Multicultural Education; Sherry Griffith, Association of California School Administrators (ACSA); Gretchen Muller, California Math Council; John Deasy, LAUSD; Suzan Solomon, California State Parent Teachers Association (PTA); Fred Navarro, Anaheim Union High School District; Scott Hill, School Innovations & Advocacy; Monica Henestroza, San Diego Unified School District;

Chris Steinhauser, Long Beach Unified School District; Mike Hanson, Fresno Unified School District; and Walter Richardson, LAUSD DAC.

The board engaged in a substantive discussion following public comment. Announcing that it was an historic day in California, President Mitchell reminded the board that this discussion was only the beginning of a process and not the end of one. He directed CDE and SBE staff to create an implementation plan as defined in the legislation, and to work with the state Legislature to launch a curriculum development process that would begin to operationalize these standards. He additionally directed Commission staff to proceed with technical cleanup of the draft presented to the board. Further, President Mitchell commended the comments related to English language learners and students with disabilities.

Finally, President Mitchell thanked the members of the California State Academic Content Standards Commission, Commission Chair Greg Geeting, and Project Director Sue Stickel for their extraordinary work on behalf of California and its children for providing high standards and equally high outcomes.

ACTION: Member Arkatov moved that the SBE, pursuant to Senate BillX5 1, adopt the academic content standards as proposed by the California Academic Content Standards Commission in English language arts and mathematics; and that the standards include the Common Core and specific additional standards that the Commission had deemed necessary to maintain the integrity and rigor of California's already extremely high standards. Member Lopez seconded the motion. The board voted, by show of hands, 9-0 to approve the motion.

Item 8: Elementary and Secondary Education Act: Approval of Local Educational Agency Plan, Title I, Section 1112: Alain Leroy Locke Charter High School.

Presenter: Debbie Rury, Interim District and School Improvement Division Director, presented on this item.

Public Comment:
Public comment was received from Juan Godinez, LAUSD DAC; and Walter Richardson, LAUSD DAC.

ACTION: Member Williams moved to approve the 2009-10 Consolidated Applications (ConApps) submitted by Alain Leroy Locke Charter High School. Member Aschwanden seconded the motion. The board voted by a show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote. Members Austin and Mitchell had recused themselves from participating in the discussion of the item and the vote.

Item 9: Approval of 2009–10 Consolidated Application: Animo Locke ACE Academy.

Presenter: Keric Ashley, Director of the Data Management Division, presented on this item.

Public Comment:
Public comment was received from Juan Godinez, LAUSD DAC; and Walter Richardson, LAUSD DAC.

ACTION: Member Williams moved to approve the 2009–10 Consolidated Application (ConApp) submitted by the local educational agency (LEA) in Attachment 1. Member Chan seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Arkatov was absent for the vote. Members Austin and Mitchell had recused themselves from participating in the discussion of the item and the vote.

Item 7: Assignment of Numbers for Charter School Petitions.

Presenter: Lupita Cortez Alcala, Deputy Superintendent of Government Affairs and Charter Development, presented on this item.

Public Comment: Public comment was not offered on this item.

Member Chan inquired into the number of charter schools currently in existence in California given her understanding that a number of charter schools throughout the state had closed, and Ms. Alcala explained that when the CDE applied for the 2010-2015 federal Public Charter Schools Program grant, California had approximately 820 charter schools. Ms. Alcala further explained that the CDE expected that 610 charter schools would open within the next five years if the current trends continued.

ACTION: Member Aschwanden moved to recommend that the SBE assign charter numbers to the charter schools identified on the attached list. Member Williams seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Austin and Arkatov were absent for the vote.

Item 2: Public comment is invited on any matter not included on the printed agenda. Depending on the number of individuals wishing to address the State Board, the presiding officer may establish specific time limits on presentations.
Type of Action: Information

The following individuals addressed the board:

- Bill Ring, LAUSD Parent Collaborative, spoke to his interest to strengthen and improve the training and orientation process for school-site councils in an effort to improve decision making at schools, as well as his concern for interdistrict permits.
- Juan Godinez, LAUSD DAC, informed the board that he and a group of parents recently visited the U.S. Department of Education (ED) to share their concerns regarding the reauthorization of the Elementary and Secondary Education Act (ESEA), and asked that the board consider including more parents on its various advisory committees and commissions.
- Ken Burt, California Teachers Association (CTA), shared his concerns regarding the board's adherence to the Bagley-Keene Open Meeting Act.
- Maria Medina, Migrant State Parents Advisory Council (SPAC), shared her concerns that two of the SPAC's recent meetings had been suspended by the CDE, and asked the board to agendize time at the next scheduled board meeting to address the cancellation of these meetings.
- Julio Mora, SPAC, spoke to his concern for the need for strong parental involvement, and asked that the board monitor the migrant education budget.
- Ernesto Gutierrez, SPAC, asked the board to reinstate the SPAC meetings.
- Carlos Vega, spoke to his concern for the need to have strong parental involvement in public education.
- Maria Ramirez, SPAC, spoke to her concern regarding the suspension of the SPAC's recent meetings.
- Juanita Arevalo, LAUSD DAC, shared her concern for the need for better communication between her district and parents.
- Monica Cano, parent, Salinas, informed the board that the SPAC was instrumental in assisting the state plan, and asked that the board restore the SPAC meetings.
- Maria Mendez, SPAC, asked the board to restore the SPAC meetings, and emphasized the importance of parental involvement.
- Maria Herrera SPAC, asked the board to restore the SPAC meetings.
- Walter Richardson, LAUSD DAC, shard his concern that the ED's *Blueprint for Reform: The Reauthorization of the Elementary and Secondary Education Act* did not properly represent parental involvement.
- Darlene Anderson, parent and community member, spoke to her concerns regarding the Student Attendance Review Boards.

No action was taken on this item

Item 4: Elementary and Secondary Education Act: School Improvement Grant: Approval of Funding of Local Educational Agencies and Schools for the 2009–10 School Improvement Grant Sub-Grants Under Section 1003(g).

Presenter: Debbie Rury, Interim District and School Improvement Division Director, presented on this item.

Public Comment:
Public comment was received from Kathryn Radtkey-Gaither, Undersecretary of Education, Office of the Secretary of Education; Juan Godinez, LAUSD DAC; Sherry Griffith, ACSA; Dr. Barbara Flores, San Bernardino City Unified School District (SBCUSD); Jim Dilday, SBCUSD; Walter Richardson, LAUSD DAC; Sharon Valear Robinson, LAUSD; Doug McRae, consultant; Joan Sullivan, Office of the Mayor, Los Angeles; Gary Yee, Board President, Oakland Unified School District (OUSD); David Montes de Oca, OUSD; Bill Ring; LAUSD Parent Collaborative; Monica Henestroza, SDUSD; Darlene Anderson, parent/community member; Colin Miller, California Charter School Association (CCSA); Michael Hulsizer, Kern County Superintendent of Schools; Sandra Silberstein, Riverside County Office of Education and Districts; and Juanita Arevalo, LAUSD.

Following public comment, Member Chan spoke to her concern that large and small school districts had to compete against one another in pursuit of the same federal dollars, and her frustration that the grant application did not provide for an equitable process.

President Mitchell reiterated that the board expressed its intent to disseminate money to California's schools in order for selected School Improvement Grant (SIG) recipients to start their reform work in a timely manner but no later than the federal start date of the academic school year.

Member Aschwanden expressed concern that the SIG monies could be taken back from the ED if the board changed the scoring metric and allocation rules at the present date, and recommended that the CDE, SBE and board liaisons first work with the ED to discuss the scoring metric to ensure that the board is responding to the intent of the grant.

While sympathetic to schools not identified as recommended schools for the Tier I list, Member Bloom explained that she was concerned about the board taking alternative actions at this late date and risking the loss of millions of dollars in SIG funds to the state.

President Mitchell stated that while he was frustrated the board had to contact the ED at this late date, this concern was outweighed by the possibility that greater clarity could result, which would prove more equitable for the schools that

had agreed to provide the types of change necessary to turn around low-performing schools.

ACTION: Member Arkatov moved that the SBE defer action on this item to 1) convene a SBE meeting by a date that would allow potential awardees to implement the School Improvement Grant (SIG) by the first school day following Labor Day (September 7, 2010), unless notified by the U.S. Department of Education (ED) that this would not be an acceptable date, and 2) direct SBE staff to work with the CDE, the board liaisons, and the ED to examine the current scoring method metric and allocation rules to ensure that they respond to both the diversity of the state local educational agencies (LEAs) and to the range of priorities the SBE and ED had identified in turning around low-performing schools. The motion also directed the CDE to contact the ED on August 4, 2010, regarding the SEA's action, and if the ED informed the state that it would forfeit its ability to secure the SIG, then a meeting will be immediately scheduled to vote on this agenda item. Member Williams seconded the motion. The board voted, by show of hands, 8-1 to approve the motion. Member Bloom voted against the motion.

NON-CONSENT (ACTION)

WAIVERS SCHEDULED FOR THE JULY 2010 SBE MEETING BUT WERE NOT HEARD DUE TO TIME CONTRAINTS

Presenter: Judy Pinegar of the Waiver Office presented on these waiver requests.

Public Comment:
Public comment was received from Pixie Hayward-Schickele, CTA.

ACTION: Member Aschwanden moved to approve the proposed waiver request items W-1 through W-5. Member Jones seconded the motion. The board voted, by show of hands, 6-0 to approve the motion.

Item W-1-General
Subject: Request by Berryessa Union Elementary School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 24-5-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-2-General
Subject: Request by El Segundo Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 36 to one, prospectively
(2010-11 and 2011-12 fiscal years).
Waiver Number: 27-5-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-3-General
Subject: Request by Huntington Beach City Elementary School District to waive portions of California *Education Code* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 58-4-2010)
(Recommended for APPROVAL WITH CONDITIONS)

Item W-4-General
Subject: Request by Oceanside Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 51-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-5-General
Subject: Request by San Marino Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 30.1 to one and the district requests to increase the average to 39 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 62-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-6-General
Subject: Request by Meadows Union Elementary School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Meadows Elementary School (requesting 20.4:1 ratio on average in grade five).

Waiver Number: 36-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Presenter: Judy Pinegar of the Waiver Office presented on this waiver request.

Public Comment: Public comment was not offered on this waiver request.

ACTION: Member Chan moved CDE's staff recommendations to approve the waiver with the following conditions: (1) This waiver applies only to classes in grade five at Meadows Elementary School (ES); (2) Meadows ES reduce the average class size at the school level to 20.4 students per classroom in grade five in the 2010–11 school year and in all subsequent years in which the school receives Quality Education Investment Act (QEIA) funding; (3) No grade five class at Meadows ES may exceed 25 students; and (4) Within 30 days of approval of this waiver, Meadows Union Elementary School District (ESD) must provide the CDE a description, including costs covered by QEIA funds, of professional development activities and any other school improvement activities added to the school improvement plan as a result of the additional funding now available through this waiver of the class size reduction (CSR) requirement. Member Aschwanden seconded the motion. The board voted, by show of hands, 6-0 to approve the motion.

Item W-7-General
Subject: Request by Anaheim Union High School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Anaheim High School (requesting 23:1 ratio on average in grade nine).
Waiver Number: 62-4-2010
(Recommended for DENIAL)

Presenter: Judy Pinegar of the Waiver Office presented on this waiver request.

Public Comment:
Public comment was received from Fred Navarro, Michelle Majewski, Patricia Lemus, and Neda Arora from the Anaheim Union High School District.

Recognizing that the class-size cap for students was generally 25, Member Chan inquired as to why the high-school district requested a cap of 23:1, which was lower than the number prior to the QEIA, and Ms. Pinegar explained that the district had a low number in which the cap was set. Member Chan concluded that the requested cap of 23:1 proved reasonable at the high school level.

President Mitchell informed the board that the DOF had clarified since the board's last meeting that QEIA money that had been forfeited from one school was returned to the QEIA funding pool to be redistributed to eligible schools. While acknowledging the progress made at Anaheim Union High School District, President Mitchell emphasized that the QEIA funding, unlike other funding streams where the state set the rules, was the result of a settlement from a lawsuit. President Mitchell stated that for the board's action on QEIA waiver requests to date had only made exceptions in the case of rural communities where other options did not exist either for the students or teaching staff.

ACTION: Member Chan moved to approve the waiver request with the condition that a 23:1 class-size ratio apply to grade nine only. Member Jones seconded the motion. The board voted, by show of hands, 6-1 to approve the motion. Member Mitchell voted against the motion.

Item W-8-General
Subject: Request by Lone Pine Unified School District to waive California *Education Code* Section 49550 the requirement that needy pupils be provided a nutritionally adequate free or reduced-price meal during each school day (State Meal Mandate) including classes conducted on Saturdays.
Waiver Number: 25-3-2010
(Recommended for APPROVAL) *EC* 33051(b) will apply.

Presenter: Judy Pinegar of the Waiver Office presented on this waiver request.

Public Comment: Public comment was not offered on this waiver request.

ACTION: Member Williams moved CDE's staff recommendation to approve waiver request W-8. Member Aschwanden seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item W-9-Specific
Subject: Request by San Marino Unified School District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code Section* 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for grades kindergarten through three. For kindergarten, the allowable class size average is 31 to one with no class larger than 33. For grades one to three, the allowable class size average is 30 to one with no class larger than 32. The district requests to increase its maximum overall average to 34 and its maximum individual class size to 35 to one for grades kindergarten through three, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 61-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

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Item W-10-Specific
Subject: Request by Lowell Joint School District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* Section 41376 (a), (c), and (d), relating to class size penalties for grades one through three. The allowable class size average is 30 to one with no class larger than 32. The district requests to increase its maximum overall average and individual class size to 34, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 33-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Presenter: Judy Pinegar of the Waiver Office presented on these waiver requests.

Public Comment:
Public comment was received from Ken Burt, CTA.

President Mitchell asked staff to clarify the CDE's findings on these waiver requests, and Ms. Pinegar explained that without the waiver, both districts would suffer financial penalties with their increased class sizes. She explained that given that both school districts were high achieving, and that reading and math were core subjects, the CDE extrapolated that these programs would suffer in the absence of the waivers.

ACTION: Member Chan moved CDE's recommendation to approve with conditions for waiver requests W-9 and W-10. Member Aschwanden seconded the motion. The board voted, by show of hands, 6-1 to approve the motion. Member Austin voted against the motion.

Following the board action, President Mitchell stated for the record that in these circumstances the board found specifically that the class-size penalty provisions of Education Code sections 41376 and 41378 would if not waived prevent the district from developing more effective educational programs to improve instruction in reading and mathematics in the classes specified in the district's application. Therefore, the board granted the waivers requested by the Lowell Joint School District and the San Marion Unified School District.

Item W-11-Specific
Subject: Request by Academia Avance Charter School under the authority of California *Education Code* Section 47612.6(a) to waive *Education Code* Section 47612.5 (c) the audit penalty for offering less instructional time in the 2007-08 fiscal year for students in grade nine (shortfall of 4,300 minutes).
Waiver Number: 48-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Presenter: Judy Pinegar, Waiver Office, presented on these waiver requests.

Item W-12-Specific
Subject: Request by Oakland Charter High School under the authority of California *Education Code* Section 47612.6(a) to waive *Education Code* Section 47612.5 (c) the audit penalty for offering less instructional time in the 2008-09 fiscal year for students in grades nine through eleven (shortfall of 2,640 minutes).
Waiver Number: 11-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Public Comment:
Public comment was received from Ken Burt, CTA.

ACTION: Member Williams moved CDE's recommendations to approve with conditions for waiver request items W-11 and W-12. Member Austin seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item W-13-Specific
Subject: Request by Eastside Union Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Dawn Fox is assigned at Columbia Elementary School.
Waiver Number: 24-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Presenter: Judy Pinegar of the Waiver Office presented on this waiver request.

Public Comment:
Public comment was received by Pixie Hayward-Schickele, CTA

President Mitchell stated that the board had asked a number of questions at previous meetings regarding similar waivers regarding instructional allocation, and noted that the board should consider experiments using different mixes of people and technology, and achieving great results.

ACTION: Member Chan moved CDE's recommendation to approve with conditions waiver request W-13. Member Williams seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

WAIVER REQUEST CONSENT MATTERS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted SBE waiver policy or have waiver evaluation criteria that are in Education Code or in the California Code of Regulations, Title 5.

The following items were proposed for the regular consent calendar: WC-1 and WC-2.

Presenter: Judy Pinegar of the Waiver Office presented on these waiver requests.

Public Comment:
Public comment was received from Ken Burt, CTA; and Gina Campbell, Pacific View Charter School.

ACTION: Member Aschwanden moved to approve the following consent calendar items WC-1 and WC-2. Member Austin seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item WC-1
Request by Oceanside Unified School District to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704, and portions of 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from a 25:1 to a 27.5:1 pupil-to-teacher ratio at Pacific View Charter School.
Waiver Number: 20-12-2009
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-2
Request by Woodland Joint Unified School District for a renewal to waive portions of California *Education Code* Section 51222(a), the statutory minimum requirement of 400 minutes of physical education required each ten school days for students in grades nine through twelve in order to implement a block schedule at Pioneer High School.
Waiver Number: 29-5-2010
(Recommended for APPROVAL)

This is the second consecutive year for this waiver for the Woodland Joint Unified School District. Therefore, California *EC* Section 33051(b) applies, and the district will not be required to reapply annually if information contained on the request remains current.

END OF WAIVER REQUEST CONSENT MATTERS

SECOND CLOSED SESSION REPORT

Angela Botellino, Interim Legal Counsel, SBE, reported out that the board met in its second Closed Session, and received clarification on a personnel matter. In addition, the board discussed the *California School Boards Association, et al.* v. *California State Board of Education* and *Aspire Public Schools* litigation and took action on next steps, which was confidential due to the ongoing nature of the litigation.

WAIVER REQUEST PULLED OFF CONSENT

Item WC-3-General
Subject: Request by Napa Valley Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Pueblo Vista Elementary School (requesting 24:1 ratio on average for all classes at the school).
Waiver Number: 44-3-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Presenter: Judy Pinegar of the Waiver Office presented on this waiver request.

Public Comment: Public comment was not offered on this waiver request.

President Mitchell explained that given his previous comments made addressing the board's scope to approve QEIA grants, he would vote against the requested waiver.

ACTION: Member Williams moved CDE staff recommendation to approve for one year only the waiver and a class size ratio of 24:1 on the average for all classes at Pueblo Vista Elementary School. Member Aschwanden seconded the motion. The board voted, by a show of hands, 6-1 to approve the motion. Member Mitchell voted against the motion.

PROPOSED CONSENT WAIVER CALENDAR

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken.

Presenter: Judy Pinegar of the Waiver Office presented on this waiver request.

Public Comment: Public comment was not offered on this waiver request.

ACTION: Member Aschwanden moved to approve the following proposed consent waiver items W-15 through W-18. Member Jones seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item W-15-General
Subject: Request by Nevada County Office of Education to waive *California Code of Regulations*, Title 5, Section 11960(b), to allow Bitney College Preparatory High School to reduce the charter school year to less than 175 days without a fiscal penalty.
Waiver Number: 49-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-16-General
Subject: Request by Nevada County Office of Education to waive *California Code of Regulations*, Title 5, Section 11960(b), to allow Nevada City School of the Arts to reduce the charter school year to less than 175 days without a fiscal penalty.
Waiver Number: 56-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-17-General
Subject: Request by Nevada County Office of Education to waive *California Code of Regulations*, Title 5, Section 11960(b) to allow Yuba River Charter School to reduce the charter school year to less than 175 days without a fiscal penalty.
Waiver Number: 57-4-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-18-General
Subject: Request by West County Transportation Agency to waive California *Education Code* Section 45134(c), to allow the employment of a State Teachers Retirement System retiree as a classified school bus driver.
Waiver Number: 7-6-2010
(Recommended for APPROVAL) *EC* 33051(b) will apply.

END OF PROPOSED CONSENT WAIVER CALENDAR

NON-CONSENT (ACTION) CALENDAR

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken.

Item W-19-Specific
Subject: Request by Imperial County Office of Education for a renewal waiver of *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Lucia Rascon, Esther Silvas, and Magdaleno Rene Gonzalez to continue to provide services to students under a remediation plan to complete those minimum qualifications.
Waiver Number: 13-5-2010, 14-5-2010, 15-5-2010
(Recommended for DENIAL)

Presenter: Judy Pinegar of the Waiver Office presented on this waiver request.

Public Comment: Public comment was not offered on this waiver request.

ACTION: Member Aschwanden moved to deny the waiver pursuant to California *Education Code Section 33051* (a)(1): the educational needs of the pupils are not adequately addressed. Member Austin seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Following the board action, Member Chan explained that the board took action on similar agenda items class year, and expressed frustration that the board was again hearing from school district's who employed interpreters who had not passed the required tests.

President Mitchell adjourned the meeting at 6:40 p.m.

*****ADJOURNMENT OF MEETING*****

State Board of Education
State Board of Education Board Room
August 24, 2010
Draft Minutes

Members Present
Ted Mitchell, President
Alan Arkatov
Benjamin Austin
Yvonne Chan
Greg Jones
David Lopez
Johnathan Williams

Members Absent
Jim Aschwanden
Ruth Bloom, Vice President

Secretary and Executive Officer
Jack O'Connell, State Superintendent of Public Instruction

Principal Staff
Nicolas Schweizer, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Joseph Egan, Interim Legal Counsel, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Geno Flores, Chief Deputy Superintendent, California Department of Education (CDE)
Marsha Bedwell, General Counsel, CDE
Jaime Hastings, Associate Government Analyst, CDE

Call to Order
President Mitchell called the meeting to order at 2:04 p.m.

Item 1: 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.

Public Comment:
Juan Godinez, Los Angeles Unified School District (LAUSD), District Advisory Council (DAC), asked the board to consider including more parents in its commissions and committees.

No action was taken on this item.

Item 2: Elementary and Secondary Education Act: School Improvement Grant: Approval of Funding of Local Educational Agencies and Schools for the 2009-10 School Improvement Grant Sub-Grants Under Section 1003(g) which includes Consideration of Two Options for Funding; One Option Based on Assumption of Approval of Federal Waiver to Expend Approximately 100 Percent of the Grant Funds for the 2010 Cohort and One Option Based on Reserving 25 Percent of Grant Funds the for 2011 Cohort.

Presenter: Presenter: Deborah Sigman, Deputy Superintendent of the Curriculum, Learning, and Accountability Branch, presented on this item.

Public Comment:
Public comment was received from Kathy Radtkey-Gaither, Undersecretary, Office of the Secretary of Education (OSE); Kimberly MacKinney, Director, Secondary Instruction, Fontana Unified School District; Pat Mazzulli, Fontana Teachers Association; Jane Russo, Santa Ana School District; Judi Penman, San Bernardino Chamber of Commerce and school board member; Jim Dilday, San Bernardino Unified School District (SBUSD); Sherry Griffith, Association of California School Administrators (ACSA); The Honorable Assemblyman Jose Solorio; Gary Yee, Board Member, Oakland Unified School District; Deneen Newman, Soledad Unified School District; Monica Henestroza, San Diego Unified School District; Doug McRae, retired education consultant; Daniel Chang, MLA Partner Schools, Juan Godinez, LAUSD, DAC; Sharon Valear Robinson, LAUSD; and Art Delgado, Superintendent, SBUSD.

Member Chan expressed her appreciation for the overall quality of applications submitted, but stated that she was uncomfortable with King Chavez Arts Academy, a small arts charter academy being awarded $1.1 million, with an additional $3.6 million allocated for district oversight. Echoing Member Chan's concerns, Member Austin stated that it wasn't appropriate to reward the lowest performing charter schools given their existing flexibilities, and recommended that the charter schools be voted on separately.

In response to the board members' concerns, Deputy Superintendent Sigman responded that each district was required to submit a needs assessment, with the objective being that the intervention would match it, and that the needs assessment was required to be publicly vetted with the community as well.

President Mitchell acknowledged the board members' frustration regarding the application process and stated that they would therefore have different perspectives on the best way to allocate dollars..

ACTION: Member Mitchell moved to approve the list of local educational agencies (LEAs), schools, and district funding recommendations enumerated in Attachment 1 of Item 2 whose budget allocations have not changed since the August 2, 2010, agenda item, with the exception of Edison Brentwood, Adelante Charter Academy, and Stanford New School. Member Austin seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Williams was absent for the vote.

Member Arkatov moved to approve a technical amendment made to Motion 1 of Item 2, which removed Edison Brentwood from the list of charter schools whose budget allocations have not changed since the August 2, 2010 agenda item. Member Chan seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Williams was absent for the vote.

Member Mitchell moved to approve the funding recommendations for Adelante Charter Academy and Stanford New School whose budget allocations had not changed from the August 2, 2010, board meeting agenda. Member Arkatov seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Williams was absent for the vote.

Member Mitchell moved to conditionally approve the list of LEAs, schools, and district funding recommendations for the remainder of the list enumerated in Attachment 1 of Item 2, contingent on the successful clearance of the conditions of the federal waiver and approval of the school level budgets by CDE and SBE staff. Member Arkatov seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Williams was absent for the vote.

Member Mitchell moved to conditionally approve the list of LEAs, schools, and district funding recommendations in the order listed in Attachment 2 of Item 2 contingent upon the rejection of the State Education Agency's waiver application to the ED. Member Jones seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Williams was absent for the vote.

Item 5: Today's Fresh Start Charter School: Reconsideration of the Appeal of the Charter Renewal Petition Initially Presented to the State Board of Education on July 14, 2010.

Presenter: Lupita Cortez Alcala, Deputy Superintendent of the Government Affairs and Charter Development Division presented on this item.

Public Comment:
Public comment was received from Lisa Corr, Middelton, Young, & Minney, LLP, Colin Miller, California Charter School Association; and Larry Carlin, CTA.

Member Chan congratulated Today's Fresh Start Charter School's (TFSCS) representatives for its efforts to improve their students' academic standing, and noted that these efforts resulted in increased growth targets and the removal of their charter school identified on the five percent of persistently lowest-achieving schools list. Member Chan further commended the charter school's representatives for the gains made with the school's English learner students, but expressed concern for the low performance of the school's African American students, which comprised the majority of the student population. Dr. Jeanette Parker, TFSCS Cofounder, responded that while management was equally concerned with its African American students test scores, it had taken a closer look at the strategies employed to ensure that those specific strategies would lead to the students' scores' upward trajectory for the coming academic school year.

In the event that the board adopted the CDE's recommendation to approve the TFSCS renewal petition, President Mitchell requested that the board receive an update to discuss what the students were learning at the school.

ACTION: Member Lopez moved to adopt the CDE's recommendation to approve Today's Fresh Start Charter School renewal petition and establish the school under the oversight of the SBE subject to the CDE's recommended conditions and modifications listed in the July 2010 SBE agenda. Member Jones seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Williams was absent for the vote.

Item 4: Adequate Yearly Progress: Approval of the 14-Day Notice Waiver to allow the Reporting of Graduation Rate Data After the Initial Release of the 2010 Adequate Yearly Progress Reports.

Presenter: Rachel Perry, Director of the Assessment, Accountability & Awards Division presented on this item.

After President Mitchell asked CDE staff about timelines, Keric Ashley, Director of the Data Management Division stated that while there was a delay in the California Longitudinal Pupil Achievement Data System's (CALDPADS) implementation, the issues were resolved, and school districts would then be required to submit their data to the CDE by the conclusion of the week.

Public Comment:
Public comment was received from Sherry Griffith, ACSA.

ACTION: Member Lopez moved to approve the CDE's recommendation to request a waiver of the federal requirement that LEAs provide a 14-day notice to

parents regarding the program improvement status of schools. Member Chan seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Williams was absent for the vote.

REPORT OF THE SUPERINTENDENT

State Superintendent of Public Instruction Jack O'Connell informed the board that for the Class of 2010, 94.6 percent of students passed both portions of the California High School Exit Examination (CAHSEE), and noted that the CDE data revealed a narrowing of the achievement gap for all subgroups. State Superintendent O'Connell also shared that students made progress on the California Standards Tests, and announced that 52 percent of students who tested in grades two through 11 scored proficient or above in English-language arts and 48 percent scored proficient or above in mathematics. Finally, State Superintendent O'Connell announced that legislation had been introduced, Senate Bill 847, in response to the federal jobs package bill, which would provide California with the spending authorization necessary for the more than 1.4 billion dollars.

Item 3: Parent Empowerment— Approve the Finding of Emergency and Proposed Emergency Regulations for Additions to the *California Code of Regulations*, Title 5, Sections 4800 - 4807.

Presenter: Geno Florez, Chief Deputy Superintendent of Public Instruction, presented on this item.

Public Comment:
Public comment was received from Kathy Radtkey-Gaither, Undersecretary, OSE; Suzan Solomon, State Parent Teachers Association; Sherry Griffith, ACSA; Ken Burt, California Teachers Association; Anela Freeman speaking on behalf of the Honorable Senator Gloria Romero, Senate Education Committee Chair; Margurete Noteware, California School Boards Association; Olivia Grant; Juan Godinez, LAUSD, DAC; Mary Najera, Los Angeles Parents Union (LAPU); Gabe Rose, Parent Revolution; Reverend K. W. Tolloss, National Action Network; Bill Ring, LAUSD Parent Collaborative; Rosamaria Segura, parent; Michael Casca, University of California Los Angeles student; and Lydia Grant, Neighbor Council Parent Representative.

President Mitchell reminded the board and the public that the proposed emergency regulations were not to be confused with the final regulations, and emphasized that board staff was in the process of working with the Governor's staff to address the permanent regulations' package that would supersede the proposed emergency regulations.

ACTION: Member Arkatov moved to approve the CDE's recommendation to approve the finding of emergency and proposed emergency regulations for additions to the *California Code of Regulations*, Title 5, sections 4800-4807. Member Williams seconded the motion. The board voted, by roll call, 6-0 to approve the motion. Member Austin recused himself from participating in the discussion of the item and voting.

President Mitchell adjourned the meeting at 6:39 p.m.

*****ADJOURNMENT OF MEETING*****

State Board of Education
State Board of Education Board Room
September 14-16, 2010
Draft Minutes

Tuesday, September 14, 2010 – 9:00 a.m. Pacific Time ±
California Department of Education Board Room
1430 N Street, Room 1101
Sacramento, CA 95814

Members Present
Ted Mitchell, President
Ruth Bloom, Vice President
James Aschwanden
Alan Arkatov
Benjamin Austin
Yvonne Chan
James Fang
Gregory Jones
David Lopez
Johnathan Williams
Connor Cushman, Student Member

Members Absent
Ruth Bloom, Vice President (Tuesday only)
James Fang (Thursday only)

Secretary and Executive Officer
Jack O'Connell, State Superintendent of Public Instruction

Principal Staff
Nicolas Schweizer, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Geno Flores, Chief Deputy Superintendent, California Department of Education (CDE)
Marsha Bedwell, General Counsel, CDE
Jaime Hastings, Associate Government Analyst, CDE

Call to Order
President Mitchell called the meeting to order at 9:10 a.m.

Salute to the Flag
Member Williams led the board, staff, and audience in the Pledge of Allegiance.

Announcements/Communications
President Mitchell welcomed new board members Connor Cushman, the 2010-11 student board member, and James Fang.

Item 1: Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; Approval of minutes; Board Liaison Reports, presentations on innovative practices, and other matters of interest.

Office of the Secretary of Education
Kathy Radtkey-Gaither, Undersecretary of Education, Office of the Secretary of Education addressed the board to share the Governor's concerns regarding the charter school revocation regulations, the CAHSEE alternative means, and the Model School Library Standards. Undersecretary Gaither concluded by providing an update to the state's Race to the Top Phase II application.

Rocketship Education
The board received a presentation from John Danner, Chief Executive Officer & Co-Founder of Rocketship Education, a national non-profit elementary charter school network based in California.

Public Comment: Public comment was not offered on this item.

Item 2: 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.

The following individuals addressed the board:

- Zella Knight, Los Angeles Unified School District (LAUSD), Parent Collaborative Legislative Subcommittee, spoke to the importance of student participation on local school governing boards and the need to have more student input at SBE meetings.
- Bill Ring, LAUSD Parent Collaborative, asked to associate his comments with Zella Knight, and spoke in support of quality decision making and transparent financial and academic data at the school-site level.
- Juan Godinez, LAUSD, District Advisory Committee (DAC), informed the board that he provided a document explaining why the LAUSD DAC did not sign the district's Consolidated Application, and asked President

Mitchell to agendize some time at a future board meeting to discuss the value in and best practices of DACs. While noting that the state did not receive a RTTT grant, he asked the board to continue its efforts to improve student data.

- Irma Munoz, LAUSD Parent Collaborative, spoke to the importance of student centers within the school districts, and emphasized the impact the centers had on participating parents interested in learning how to work with their schools to better prepare assist their children academically.

The following individuals addressed the board to share their concerns about the Alisal Union Elementary School District (AUESD)

- Agripina Cruz, parent
- Juana Martinez, parent
- Dora Lopez, parent
- Elizabeth Miller, parent
- Fausta Hernandez, parent
- Sylvia Huerta
- Juvenal Ibarra
- Lydia Rodriguez, parent
- Francisco Estrada, bilingual teacher
- Carlos Vega
- Juvenal Ibarra
- Maria Marquez
- Eduardo Velasquez
- Aida Estrada
- Martha Z. Diaz, California Association for Bilingual Education (CABE) and Californians Together
- Sally Pruneda, retired bilingual teacher
- Natalia Cruz and Junior Miller, students

The following individuals expressed their concerns regarding migrant education:

- Alicia Garcia, Imperial County, Region 6
- Elizabeth Valdez
- Alicia Garcia, Imperial County, Region 6
- Soledad Ruiz
- Mario Loy
- Martha Hernandez
- Connor Bonjon
- Javier Magana, Migrant Education Region 17
- Ernesto Quintana
- Maria Espinoza, Migrant Education Region 10
- Elaine Pearson, Migrant Education Teacher, Region 2
- Florencia Luppereio
- Martha Martinez, Migrant Education, Davis Region

- Elizabeth Valdez, Migrant State Parent Advisory Council (SPAC)
- Karen Quintanilla, Migrant Education Region 2
- Delia Ayala, Migrant Education Region 2
- Ramon Ortiz, SPAC, Region 2
- Rosa Ortiz, SPAC, Region 17
- Esther Ruiz, SPAC, Region 17
- Demetrio Aruveda, Coalition of Peace and Justice
- Maxia Torres, SPAC
- Monica Cano
- Maria Medina, Chair, SPAC, Region 22
- Jose Rojas, member, SPAC
- Jose Pineda SPAC, Executive Board
- Julio Mora, SPAC
- Maria Herrera, SPAC, Region 21
- Martin Parra

No action was taken on this item.

Item 4: Elementary and Secondary Education Act: Performance Objectives Presented by the State Trustee for the Greenfield Union Elementary School District for State Board of Education Approval.

Presenter: Patricia de Cos, Deputy Executive Director of the SBE presented on this item.

Public Comment: Public comment was not offered on this item.

President Mitchell reiterated to both the board and members of the public that the board was asked to approve a set of performance objectives against which it would measure the progress of the district and trustee. He explained that the job of the board was to define the performance objectives but not yet measure these objectives. President Mitchell stated that the question for the board was when the proposed work was complete, whether the board's efforts had helped the school district improve academically so that the school district could be returned to local control.

ACTION: Member Aschwanden moved to adopt the SBE staff recommendation to approve the performance objectives presented by Norma Martinez, State Trustee of the Greenfield Union Elementary School District (GUESD) pursuant to the Memorandum of Understanding between the SBE and the GUESD State Trustee. Member Lopez seconded the motion. The board voted, by a show of hands, 10-0 to approve the motion. Member Bloom was absent for the vote.

Item 6: Elementary and Secondary Education Act: Initial Trustee Report, Including an Identification of Problems and Recommendations for Improving Student Performance in Round Valley Unified School District.

Presenter: Christine Swenson, Director of the District & School Improvement Division presented on this item.

Public Comment:
Public comment was received from Peter Bauer, Round Valley Unified School District (RVUSD); Tom Hayes RVUSD; Cynthia O'Ferrall, RVUSD; Ernest Jones, student/teacher; Madeline Daughton, RVUSD; and Valerie Britton, RVUSD.

Member Aschwanden stated that after receiving an overview of the item from CDE staff, hearing from Paul Tichinin, Mendocino County Office of Education Superintendent, and members of the RVUSD board, establishing and maintaining trust amongst all education stakeholders was in his opinion the most pressing concern for the community. Given the RVUSD's acceptance and appreciation for the district's DAIT provider, Member Aschwanden stated that it would be in the best interest for the RVUSD if authority was given to an independent trustee.

ACTION: Member Aschwanden moved to instruct CDE and SBE staff to: 1) return at the November board meeting with a recommendation for an independent full trustee in Round Valley USD; 2) work with the community to identify potential trustee; and 3) think through some of the issues about budget, control, and decision making that are standing in the way of student progress. If CDE and SBE staff is not able to recommend a trustee in time for the November board meeting, they will prepare and present an alternative plan.

The board voted, by a show of hands, 10-0 to approve the motion. Member Bloom was absent for the vote.

*****PUBLIC HEARING*****

Item 8: Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of the Mission Preparatory School Petition, Which Was Denied by the San Francisco Unified School District.

Presenter: Carolyn Zachry, Consultant for the Charter Schools Division presented on this item.

OPEN PUBLIC HEARING: 2:52 p.m.

CLOSE PUBLIC HEARING: 3:29 p.m.

Public Comment:
Public comment was received from Larry Carlin, CTA; Colin Miller, California Charter School Association; Maria Elena Guadamuz, University of California Los Angeles; Monica Licea, parent; Yves Valdez, City College of San Francisco; Clay Deanhardt, founding member of Mission Preparatory School; Carlos Vasquez, Build Inc.; Lou Vasquez, Build Inc.; Lizbett Calleros, Central American Resource Center; and Bill Ring, parent.

President Mitchell informed the board that having reviewed a large number new charter school petitions, the Mission Preparatory School petition was in his opinion one of the strongest petitions presented to the board. President Mitchell complimented the charter board for selecting Jane Henzerling to head the school, and stated that the students attending this school would be well served from Ms. Henzerling's leadership.

ACTION: Member Chan moved to adopt CDE's recommendation to approve the petition for establishing the Mission Preparatory School petition under the oversight of the SBE and to incorporate the following provisions in its approval action:

- The SBEs Conditions on Opening and Operation as set forth in Attachment 1.

- Modifications to the charter in accordance with the CDE report as set forth in detail in Attachment 2, and as follows:

    - Racial and Ethnic Balance, California *Education Code (EC)* Section 47605(b)(5)(G) and *California Code of Regulations,* Title 5 (5 *CCR*) Section 11967.5.1(f)(7): The CDE recommends a technical amendment to clarify that the outreach plan will be regularly reviewed and revised as necessary to ensure racial and ethnic balance.

    - Admission Requirements, *EC* Section 47605(d)(2): Technical amendments are needed to ensure that the admission requirements comply with federal and state law.

    - Annual Independent Financial Audits, *EC* Section 47605(b)(5)(I): The CDE recommends technical amendments to reflect SBE authorization.

    - Suspension and Expulsion Procedures, *EC* Section 47605(b)(5)(J): The CDE recommends technical amendments specifically:

- The preliminary list of offenses for which students must or may be suspended is to be separate from the list of offenses for which students must or may be expelled pursuant to 5 *CCR* Section 11967.5.0(f)(10)(A).

- The petition must provide evidence that noncharter schools lists of offenses and procedures were reviewed to prepare their list pursuant to 5 *CCR* Section 11967.5.1(f)(10)(D).

o Staff Retirement Programs, as required by *EC* Section 47605(b)(5)(K): The CDE recommends a technical amendment to clarify staff that will be responsible for ensuring that appropriate arrangements for coverage are made.

o Public School Attendance Alternatives, *EC* Section 47605(b)(5)(L) and 5 *CCR* Section 11967.5.1(f)(12): The CDE recommends a technical amendment to clarify how information regarding attendance alternatives will be communicated to parents.

o Dispute Resolution, *EC* Section 47605(b)(5)(N): The CDE recommends technical amendments to reflect SBE authorization and specifically:

- The petition must describe how the costs of the dispute resolution process, if needed, would be funded.

- The petition must be amended to allow for immediate revocation in the event that the basis for the revocation is *EC* Section 47607(d) – a severe and imminent threat to the health and safety of pupils.

o Effect on Authorizer and Financial Projections, *EC* Section 47605(g): The CDE recommends technical amendments to the petitioner budget, specifically:

- The petitioner needs to specify how administrative services will be provided if not purchased from the district. Additional clarification is needed in the budget to delineate costs for administrative services.

- The petitioner budget needs to be amended to include substitute teacher salaries.

o Transmission of Audit Report, *EC* Section 47605(m): The CDE recommends technical amendments to clarify audit procedures.

- Specification of a five-year term beginning July 1, 2011, and ending June 30, 2016.

- Termination of the charter if the school does not open between July 1, 2011, and September 30, 2011. (MPS requested the option to defer opening for one year if ample funding cannot be secured with adequate time to open by September 30, 2011.)

Member Jones seconded the motion. Member Arkatov proposed the following friendly amendment:

- As part of the MOU established by CDE and Mission Preparatory School, that at the beginning of any closure or revocation process, or one year before a renewal is to be considered, Mission Preparatory School shall immediately provide at its own expense a written notification to every parent, guardian, or caregiver of all options available (including specific schools) for students to transfer if it is needed or desired, and any administrative assistance required to provide for a timely transfer.

Members Chan and Jones accepted the amendment. The board voted, by a show of hands, 10-0 to approve the motion. Member Bloom was absent for the vote.

*****END OF PUBLIC HEARING*****

Item 9: Charter Revocation and Revocation Appeals: Approve Commencement of 15-Day Public Comment Period for Proposed Amendments to *California Code of Regulations,* Title 5 sections 11965, 11968.1, 11968.5.1, 11969.1, 11969.2, 11969.3, 11969.4, and 11969.10.

Presenter: Michelle Ruskofsky, Education Administrator for the Charter Schools Division presented on this item.

Public Comment:
Public comment was received from Eric Premack, Charter Schools Development Center (CSDC); Colin Miller, CCSA; Jerry Simmons, Middleton, Young & Minney; Stephanie Farland, CSBA; Sherry Griffith, ACSA; and Juan Godinez, LAUSD DAC.

Following a substantive board discussion, President Mitchell explained that he viewed the presented regulations as an opportunity to detect malfeasance where students were systematically adversely impacted by adults. He emphasized that the question presented to the board was what should be included in the list of clear and imminent danger items, and who should make that determination. The

challenge, President Mitchell explained, was to protect charter schools against capricious application of these questions.

ACTION: Member Williams moved to adopt the CDE's recommendation that the SBE take the following actions:

- Approve the proposed changes to the proposed amendments to the regulations;

- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;

- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed amendments with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;

- If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's November 2010 agenda for action; and

- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

- Member Williams also moved to add new subsection (a) to section 11968.5.2 on line 1 of page 7 to read: "At least 72 hours prior to any board meeting in which a school board will consider issuing a "Notice of Violation," the charter authorizer shall provide the charter school with notice and all relevant documents related to the proposed action;" and

- Amend subsection (e) of section 11968.5.2 to insert on line 1 of page 8 after "a Final Decision:" "At any hearing concerning the revocation of a charter school, the charter school shall be allowed equal time to present and rebut prior to the close of the hearing."

The motion was seconded by Member Austin. The board voted, by a showing of hands, 10-0 to approve the motion. Member Bloom was absent for the vote.

Item 10: Charter Revocation Pursuant to California *Education Code* Section 47604.5(c) – Approve Commencement of Second 15-Day Public Comment Period for Proposed Changes to Proposed *California Code of Regulations,* Title 5, Section 11968.5.

Presenter: Michelle Ruskofsky, Education Administrator for the Charter Schools Division presented on this item.

Public Comment:
Public comment was received from Doug McRae, consultant; Eric Premack, CSDC; Colin Miller, CCSA; Stephanie Farland, CSBA; and Sherry Griffith, ACSA.

Speaking to public comments raised that questioned whether the presented regulations resolved a problem within charter schools, Member Austin stated that a number of charter schools that continued to operate in California failed to serve students well. Because charter schools enjoyed significant regulatory freedoms than traditional public schools, Member Austin stated that charter schools must be held to a higher standard.

ACTION: Member Arkatov moved to adopt CDE's recommendation to:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and the California Department of Education (CDE) is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's November 2010 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.
- Member Arkatov also moved to insert the following language for section 11968.5 d): "At the beginning of the revocation review, CDE shall require any school being reviewed to immediately provide, at their own expense, written notification to every parent, guardian, or caregiver that fully describes the revocation process, all options including specific schools available to students to transfer if it is needed or desired, and any administrative assistance required for a timely transfer."

Member Aschwanden seconded the motion. The board voted, by a show of

hands, 9-0 to adopt the motion. Members Bloom and Fang were absent for the vote.

Item 14: Elementary and Secondary Education Act: Striving Readers Comprehensive Literacy Program; Submission of the State Application for the Striving Readers Comprehensive Literacy Program Under Part E, Section 1502.

Presenter: Beth Rice, Education Programs Consultant for the SBE presented on this item.

Public Comment:
Public comment was received from Sherry Griffith, ACSA.

President Mitchell reminded the members of the public that the formula money was designed to set up the infrastructure by which the board applied for the grant, and to support the work of the team that would write the literacy plan for the state.

ACTION: Member Aschwanden moved to adopt the SBE staff recommendation to authorize the SBE President to do the following, as appropriate:

- Work with the CDE and SBE staff to complete the California Striving Readers Comprehensive Literacy Program (SRCL) Application;
- Sign and submit the SRCL Application that is due to the U.S. Department of Education (ED) by September 30, 2010; and
- Work jointly with the State Superintendent of Public Instruction and the California Secretary of Education to select a minimum of nine members of the California SRCL State Literacy Team.

Member Chan seconded the motion. The board voted, by a show of hands, 7-0 to approve the motion. Members Austin, Fang, and Williams were absent for the vote.

Item 13: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs.

Presenter: Christine Swenson, Director of District and School Improvement Division, presented on this item.

Public Comment:

Public comment was received by Doug McRae, retired test publisher; Juan Godinez, LAUSD, DAC; and Bill Ring, LAUSD Parent Collaborative.

No action was taken on this item.

*****ADJOURNMENT OF THE DAY'S SESSION*****

President Mitchell adjourned the day's meeting at 6:14 p.m.

State Board of Education
State Board of Education Board Room
September 14-16, 2010
Draft Minutes

Wednesday, September 15, 2010 – 9:00 a.m. Pacific Time +
California Department of Education Board Room
1430 N Street, Room 1101
Sacramento, CA 95814

Members Present
Ted Mitchell, President
Ruth Bloom, Vice President
James Aschwanden
Alan Arkatov
Benjamin Austin
Yvonne Chan
James Fang
Gregory Jones
David Lopez
Johnathan Williams
Connor Cushman, Student Member

Call to Order
The meeting was called to order at 9:47 a.m.

Salute to the Flag
Member Chan led the Board, staff, and audience in the Pledge of Allegiance.

Announcements

President Mitchell announced that the board would first meet in Closed Session and follow with Open Session at approximately 10:00 a.m.

CLOSED SESSION REPORT

President Mitchell reported out that the board met in Closed Session to hear updates on two matters: *California School Boards Association and its Education Legal Alliance, et al.,* v. *The California State Board of Education, et al.;* and *Emma C., et al.* v. *Delaine Eastin, et al*.

CONSENT CALENDAR

The following items were proposed for the regular consent calendar: 3, 12, 15, 17, and 26 through 28.

Public Comment:
Martha Z. Diaz, Californians Together; Lydia Grant, parent representative, Sunland-Tujunga, Neighborhood-Council; Bill Ring, LAUSD Parent Collaborative; and Katie Valenzuela, Public Advocates.

Following public comment, President Mitchell requested that Item 17 be removed from the proposed consent calendar.

ACTION: Member Aschwanden moved to approve the amended consent calendar by removing Item 17 from the proposed consent calendar. Member Austin seconded the motion. The board voted, by show of hands, 10-0 to approve the motion. Member Williams was absent for the vote.

Item 3: Appoint Eugene Flores and Deborah Kennedy to positions in accordance with Article IX, Section 2.1, of the Constitution of the State of California.

Item 12: Assignment of Numbers for Charter School Petitions.

Item 15: Elementary and Secondary Education Act: Approve Local Educational Agency Plans, Title I, Section 1112.

Item 26: The Administrator Training Program: Approval of Training Providers and Training Curricula.

Item 27: State Instructional Materials Fund – Approve Tentative Encumbrances and Allocations for Fiscal Year 2010–11.

Item 28: Reading First Program (Title I, Part B, Federal No Child Left Behind Act), Request for Waiver of the Tydings period for Federal Fiscal Year 2008 Item Number 6110-126-0890.

END OF CONSENT CALENDAR

Item 16: Local Education Agency Teacher and Principal Performance Evaluation Practices and Reporting Requirements.

Presenter: Beth Rice, Education Programs Consultant for the SBE presented this item.

Following staff introduction, the board heard from Dr. John Deasy, Deputy Superintendent, LAUSD; Kim Mecum, Human Resources Director, Fresno Unified School District (FUSD); Greg Adams, President, FUSD Teachers Association; Joe Baker, FUSD; and Ruth Ashley, FUSD.

Public Comment:
Public comment was received from Melissa Eiler White, WestEd; Sherry Griffith, ACSA; Bill Ring; LAUSD Parent Collaborative; Juan Godinez, LAUSD DAC; Pixie Hayward-Schickele, CTA; Martha Z. Diaz, Californians Together and CABE; Zella Knight, LAUSD Parent Collaborative; Jim Woodhead, member, Advisory Commission on Special Education (ACSE); and Irma Munoz.

Member Aschwanden commended the presenters for sharing their perspectives and ideas on teacher and principal evaluation to the board, but cautioned that the work ahead would require long-term staff capacity before a school district could come back to the board to help them understand what it is that they did at the local level that could assist the board understand best practices.

ACTION: Member Austin moved to adopt a resolution to:

- Commend the school board members, administrators and union leaders of the Los Angeles Unified, Fresno Unified, and Long Beach Unified school districts for their work improving teacher and principal evaluation systems, and specifically for incorporating performance data into these systems.

- Request that the presenters come back to the next board meeting to provide an update.

- Direct California Department of Education (CDE) and State Board of Education (SBE) staff to work with these districts and other stakeholders to come up with a list of specific proposals the board can act on at the next meeting to support the work these districts are doing and improve teacher and principal evaluation across the state of California.

The motion was seconded by Member Chan. Member Arkatov offered a friendly amendment adding to the resolution that CDE, in collaboration with SBE staff, quickly provide information via the Web that serves as a clearing house for relevant facts, data, recommendations, and opinions regarding teacher evaluation strategies and policies from interested parties at the local, state, and national levels. The amendment was accepted by Members Austin and Chan.

The board voted, by a show of hands, 11-0 to pass the motion.

Item 17: State Fiscal Stabilization Fund Indicator (a)(2): Update of California's

Teacher Equity Plan.

Presenter: Phil Lafontaine, Director of the English Learner and Curriculum Support Division, presented on this item.

Public Comment:
Public comment was received from Katie Valenzuela, Public Advocates; Martha Diaz, Californians Together and CABE; Sherry Griffith, ACSA.; and Bill Ring, LAUSD Parent Collaborative.

President Mitchell acknowledged that while the Teacher Equity Plan met the regulatory requirements, he asked CDE staff whether they could respond to Martha Diaz's concerns that additional information be inserted into the document, and CDE staff stated they would add the suggested Crosscultural, Language and Academic Development (CLAD) segments into the document.

ACTION: Member Lopez moved to adopt the CDE recommendation that the SBE approve the revised Teacher Equity Plan (TEP) in Attachment 1 with the modification to: 1) add the Bilingual, Crosscultural, Language and Academic Development (BCLAD) and Crosscultural, Language and Academic Development (CLAD) segments into the document, and 2) separately request CDE to share with the SBE some samples of LEA responses. Member Chan seconded the motion. The board voted, by a show of hands, 10-0 to approve the motion. Member Arkatov was absent for the vote.

*****PUBLIC HEARING*****

Item 18: Appeal of a Decision by the San Mateo County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Ravenswood City School District to the Menlo Park City School District in San Mateo County.

Presenter: Larry Shirey, Consultant for the School Fiscal Services Division presented on this item.

OPEN PUBLIC HEARING: 2:02 p.m.

CLOSE PUBLIC HEARING: 2:23 p.m.

Public Comment:
Public comment was not offered on this item.

President Mitchell thanked the respective parties, CDE staff and board members for contributing to the board discussion, and reiterated that when the board

looked at the question presented, it wasn't merely addressing what to do with this particular petition but instead asking if more could be done to help all students succeed.

ACTION: Member Chan moved to reject the CDE's recommendation and accept the petition to transfer territory from the Ravenswood City School District to the Menlo Park City School District in San Mateo County, and based on that action, approve the CDE's recommendation to limit the voting to the affected townhomes alone. The board voted, by a show of hands, 6-5 to approve the motion.

Yes Votes: Members Arkatov, Aschwanden, Austin, Bloom, Chan, and Cushman
No Votes: Fang, Jones, Lopez, Mitchell, and Williams

*****END OF PUBLIC HEARING*****

*****PUBLIC HEARING*****

Item 19: Appeal of a Decision by the Santa Clara County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Lakeside Joint School District to the Los Gatos Union School District in Santa Clara County.

Presenter: Larry Shirey, Consultant for the School Fiscal Services Division presented on this item.

OPEN PUBLIC HEARING: 2:32 p.m.

Bob Chrisman, Superintendent, Lakeside Joint School District, and Richard Whitmore, Superintendent, Los Gatos Union School District, both stated they were on record against the appeal.

CLOSE PUBLIC HEARING: 2:36 p.m.

Public Comment:
Public comment was not offered on this item.

ACTION: Member Aschwanden moved to adopt the CDE recommendation to affirm the action of the Santa Clara County Committee on School District Organization (County Committee) by adopting the proposed resolution in Attachment 2, thereby denying the appeal. Member Cushman seconded the motion. The board voted, by a show of hands, 7-0 to approve the motion. Member Jones abstained from the vote. Members Arkatov, Austin, and Mitchell were absent for the vote.

*****END OF PUBLIC HEARING*****

Item 21: California High School Exit Examination: Analysis and Consideration of Alternative Means to the California High School Exit Examination.

Presenter: Rachel Perry, Director of the Assessment, Accountability & Awards Division presented on this item.

Public Comment:
Public comment was received from Doug McRae, retired testing consultant; Jim Woodhead, ACSE; and Sherry Griffith, ACSA.

After a substantive discussion, Member Bloom reminded the board and the members of the public that the board relied on various advisory commissions and committees to assist them with its decision-making process, and suggested that the ACSE review this agenda item and report back its findings and recommendations at the January 2011 board meeting.

ACTION: Member Chan moved to direct that this item be presented to the Advisory Commission on Special Education for review and discussion at its next scheduled meetings and that the Commission provide the SBE in January 2011 with recommendations regarding the following:

- The option to use of a cut score of 300 in the grades 9-11 in English language arts (ELA) CST and Algebra I CST as an alternate means to passage of the CAHSEE for eligible students.

- The option to use ELA California Modified Assessment (CMA) and Algebra 1 CMA as an alternate means to passage of the CAHSEE for eligible students.

- The advisability of conducting a field-based pilot study of the SSPI proposed Tier I and Tier II alternative means to the CAHSEE.

- Suggestions for the appropriate uses of the remaining AB 2040 funds.

Member Austin seconded the motion, and requested a friendly amendment to the motion to direct CDE staff to provide the SBE with information on using student grades as an alternative means, which was accepted by Member Chan. The board voted, by a show of hands, 9-0 to adopt the motion. Members Fang and Mitchell were absent for the vote.

Item 24: Accountability Progress Reporting System: Results from the 2010 Growth Academic Performance Index, 2010 Adequate Yearly Progress, and 2010–11 Program Improvement Reports.

Presenter: Rachel Perry, Director of the Assessment, Accountability & Awards Division presented on this item.

Public Comment:
Public comment was received from Doug McRae, retired testing consultant; Juan Godinez, LAUSD DAC; Sandra Thornton, CTA; Bill Ring, LAUSD Parent Collaborative; and Sherry Griffith, ACSA.

No action was taken on this item.

Item 29: Legislative and Budget Update, Including, but not Limited to, Information on the 2009–10 Legislative Session and the 2009–10 and 2010–11 Budgets.

Presenter: Cathy McBride, Director of the Legislative Affairs Division presented on this item.

Public Comment:
Public comment was received from Juan Godinez, LAUSD DAC.

No action was taken on this item.

*****ADJOURNMENT OF THE DAY'S SESSION*****

President Mitchell adjourned the day's meeting at 5:18 p.m.

State Board of Education
State Board of Education Board Room
September 14-16, 2010
Draft Minutes

Thursday, September 16, 2010 – 9:00 a.m. Pacific Time ±
California Department of Education Board Room
1430 N Street, Room 1101
Sacramento, CA 95814

Members Present
Ted Mitchell, President
Ruth Bloom, Vice President
James Aschwanden
Alan Arkatov
Benjamin Austin
Yvonne Chan
Gregory Jones
David Lopez
Johnathan Williams
Connor Cushman, Student Member

Members Absent
James Fang

Call to Order
The meeting was called to order at 9:00 a.m.

Salute to the Flag
Member Lopez led the Board, staff, and audience in the Pledge of Allegiance.

CLOSED SESSION REPORT

President Mitchell reported out that the board met in Closed Session to receive advice on the *Reed* v. *State of California, Los Angeles Unified School District, State Superintendent of Public Instruction, Jack O'Connell, California Department of Education, and State Board of Education, et al*. matter.

REPORT OF THE SUPERINTENDENT

Geno Florez, Chief Deputy Superintendent of Public Instruction, spoke on behalf of State Superintendent of Public Instruction Jack O'Connell, and thanked both the executive and legislative branches in California for their swift work on the

Education Jobs Bill, Senate Bill 847.

Chief Deputy Florez announced that State Superintendent O'Connell publicly released the 2010 Academic Progress Reports for all of California's schools.

Chief Deputy Florez announced that the CDE would conduct a soft launch for its Brokers of Expertise Web page within the next week.

Finally, Chief Deputy Florez informed the board that the CDE's publication, *Improving Education for English Learners: Research-Based Approaches*, sold out its first publication, and that staff was in print for the second edition.

Re-Open Item 1: Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; Approval of minutes; Board Liaison Reports, presentations on innovative practices, and other matters of interest.

Public Comment:
Public comment was not offered on this item.

ACTION: Member Bloom moved to approve minutes from the May 2011 board meeting. Member Arkatov seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Bloom abstained from the vote. Member Fang was absent for the vote.

Item 22: California High School Exit Examination: Approve the Finding of Emergency and Proposed Emergency Regulations for Amendments to the *California Code of Regulations,* Title 5, Section 1216.1.

Presenter: Rachel Perry, Director of the Assessment, Accountability & Awards Division presented on this item.

Public Comment:
Public comment was received from Kristin Wright, ACSE Chair.

ACTION: Member Chan moved to adopt the CDE recommendation that the SBE take the following actions:

- Approve the Finding of Emergency;
- Adopt the proposed Emergency Regulations; and

- Direct the CDE to circulate the required notice of proposed emergency action, and then submit the Emergency Regulations to the Office of Administrative Law for approval.

Member Lopez seconded the motion. The board voted, by a show of hands, 10-0 to approve the motion. Member Fang was absent for the vote.

Item 23: California High School Exit Examination Alternative Means: Approve Commencement of the Rulemaking Process for Amendments to the *California Code of Regulations,* Title 5, Section 1216.1.

Presenter: Rachel Perry, Director of the Assessment, Accountability & Awards Division presented on this item.

Public Comment:
Public comment was not offered on this item.

ACTION: Member Bloom moved to adopt the CDE recommendation that the SBE take the following actions:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the CDE to commence the rulemaking process.

Member Cushman seconded the motion. The board voted, by a show of hands, 10-0 to approve the motion. Member Fang was absent for the vote.

Item 30: Parent Empowerment — Approve Commencement of 45-day Comment Period for Proposed Additions to the *California Code of Regulations*, Title 5, Sections 4800 - 4807.

Presenter: Christine Swenson, Director of the District & School Improvement Division presented on this item.

Public Comment:
Public comment was received from Zella Knight, LAUSD; Bill Ring, LAUSD; Juan Godinez, LAUSD DAC; Doreen McGuire-Griggs, CTA; Reverend Tulloss, parent; Crissina Johnson, parent; Lydia Grant, parent, David Page, parent, San Diego

USD; Gabe Rose, Parent Revolution; the Honorable Senator Gloria Romero; Yolanda Arroyo, Parent Revolution; Shirley Ford, Parent Revolution; Sherry Griffith, ACSA; Marguerite Noteware, CSBA; and Martha Z. Diaz, Californians Together.

ACTION: Member Chan moved to adopt CDE's recommendation to take the following actions:

- Approve the Notice of Proposed Rulemaking
- Approve the Initial Statement of Reasons
- Approve the proposed regulations
- Direct CDE to commence the rulemaking process

Member Jones seconded the motion. Member Arkatov offered a friendly amendment to add a new section to the beginning of the regulations to read as follows: "It was the intent of the Legislature and remains the intent of the State Board for Parent Empowerment to remain valid in the event of changes to federal law referenced within the legislative language of Senate Bill X5 4 to the extent allowable under the law." The amendment was accepted by Members Chan and Jones. The board voted, by a show of hands, 9-0 to adopt the motion. Member Austin had recused himself from participating in the discussion and voting on the item. Member Fang was absent for the vote.

Item 32: Model School Library Standards for California Public Schools, Kindergarten Through Grade Twelve.

Presenter: Tom Adams, Director of Curriculum Frameworks & Instructional Resources Division presented on this item.

Public Comment:
Public comment was received from Juan Godinez, LAUSD DAC; Bill Ring, LAUSD Parent Collaborative; Susan Thompson, California School Library Association (CSLA); Connie Williams, CSLA; John McGinnis, Long Beach Unified School District; Marguerite Noteware, CSBA; Jennie Rae Davis; Sherry Griffith, ACSA; Linda Goff, California State University Sacramento; and Sandra Thornton, CTA.

The board complimented the CDE and many volunteers who contributed to the development of the Model School Library Standards. Echoing the admiration of the efforts made to produce the standards, President Mitchell cautioned however that while the Library School Library Standards were not mandated, he was

concerned that school districts would feel compelled to allocate resources to implement the standards. Speaking to President Mitchell's concerns, Member Aschwanden spoke to his experience serving on a committee that prepared career technical education standards. Member Aschwanden noted that when the committee prepared those standards their concerns focused on the school districts that would ignore the standards, at the detriment of serving the very population of students who would benefit from such information. Member Aschwanden thanked President Mitchell for raising the concern but stressed that the board couldn't delay the passage of the standards for fear of what may or may not happen at the district level.

ACTION: Member Aschwanden moved to approve CDE's recommendation that the SBE adopt model standards for school libraries with the understanding that the State Superintendent of Public Instruction in conjunction with the SBE will convene a group of school library experts to examine the effect of the Common Core California Standards on the Model School Library Standards and may present possible revisions to the Model School Library Standards at a later SBE meeting. Member Arkatov seconded the motion. The board voted, by a show of hands, 10-0 to approve the motion. Member Fang was absent for the vote.

Item 31: Open Enrollment Act–Approve Commencement of 15-Day Public Comment Period for Proposed Changes to Proposed *California Code of Regulations*, Title 5, sections 4700–4703.

Presenter: Cindy Cunningham, Deputy Superintendent P-16 Policy and Information Branch, presented on this item.

Public Comment:
Public comment was received from Donna Perez, Superintendent, Alhambra Unified School District; Zella Knight, LAUSD; Bill Ring, LAUSD; Juan Godinez, LAUSD DAC; Sandra Thornton, CTA; Marguerite Noteware, CSBA; James Gibson, Superintendent, Castaic Union School District; Mike Kilbourn, Orange County Department of Education and California County Superintendents Association; Marc Jackson, Silver Valley Unified School District; Meg Abrahamson, Pasadena Unified School District; Sherry Griffith, ACSA, Bill Lucia, EdVoice; Monica Henestroza, San Diego USD; David Page, San Diego USD.

Member Chan inquired into the timelines for the proposed regulations, and Deputy Superintendent Cunningham explained that the public had only received a copy of the amendments earlier in the morning. Because new information was inserted into the regulations, she believed that there would be additional comments provided, since CDE staff had received nearly 60 public comments during the past public comment period.

ACTION: Member Aschwanden moved to approve CDE's recommendation that the SBE take the following actions:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and the California Department of Education (CDE) is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's November 2010 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Lopez seconded the motion. The board voted, by a show of hands, 7-0 to approve the motion. Members Bloom and Chan abstained from the vote. Members Fang and Jones were absent for the vote.

Item 33: Approval of 2010–11 Consolidated Applications.

Presenter: Keric Ashley, Director of the Data Management Division presented on this item.

Public Comment:
Public comment was received by Juan Godinez, LAUSD DAC; Bill Ring, LAUSD Parent Collaborative; Zella Knight, LAUSD; David Page, San Diego Unified School District; David Tokofsky, Learning Works!; Dir Mikala Ratin, Learning Works!; and Tomoko Patrick, Learning Works!

President Mitchell thanked the speakers for sharing their concerns during public comment, and suggested that the board agendize some time at a future meeting to discuss and learn about best practices for District Advisory Committees (DAC). Referencing a concern raised during public comment, President Mitchell asked CDE staff to clarify whether DACs met the requirements under the law, and Mr. Ashley explained that for those school districts that received Economic Impact Aid funds, and used those funds for compensatory education at the local level,

they were to use their DAC to advise on their ConApp, which was not the same thing as asking it to approve a ConApp in question. More specifically, he noted that the DAC was asked to lend their feedback on that section of the ConApp that addressed compensatory education.

ACTION: Member Aschwanden moved to adopt the CDE recommendation that the SBE approve the 2010–11 Consolidated Applications (ConApps) submitted by local educational agencies (LEAs) in Group One of Attachment 1. Member Chan seconded the motion. The board voted, by a show of hands, 9-0 to approve the motion. Members Fang and Lopez were absent for the vote.

Member Aschwanden moved to adopt the CDE recommendation that the SBE approve the 2010–11 ConApps submitted by LEAs in Group Two of Attachment 1. Member Chan seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Arkatov, Austin, and Mitchell had recused themselves from participating in the discussion and voting on the item, and Member Fang was absent for the vote.

Member Cushman moved to adopt the CDE recommendation that the SBE approve the 2010–11 ConApps submitted by LEAs in Group Three of Attachment 1. Member Chan seconded the motion. The board voted by a show of hands, 9-0 to approve the motion. Member Lopez had recused himself from participating in the discussion and voting on the item, and Member Fang was absent for the vote.

Member Williams moved to adopt the CDE recommendation that the SBE approve the 2010–11 ConApps submitted by LEAs in Group Four of Attachment 1. Member Mitchell seconded the motion. The board voted, by a show of hands, 9-0 to approve the motion. Member Chan had recused herself from participating in the discussion and voting on the item, and Member Fang was absent for the vote.

Member Mitchell moved to adopt the CDE recommendation that the SBE approve the 2010–11 ConApps submitted by LEAs in Group Five of Attachment 1. Member Cushman seconded the motion. The board voted, by a show of hands, 9-0 to approve the motion. Member Williams had recused himself from participating in the discussion and voting on the item, and Member Fang was absent for the vote.

Item W-21 General
Subject: Request by Orange County Department of Education to waive *Education Code* (*EC*) Section 51745.6 (a) the requirement that the independent study pupil-teacher ratio shall not exceed the equivalent ratio at the largest high

school or unified district in the county. The Orange County Department of Education requests an independent study ratio of 35 to one.
Waiver Number: 44-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Presenter: Judy Pinegar of the Waiver Office presented introduced this item. William M. Habermehl, Superintendent, Orange County Office of Education spoke in support of the waiver request.

Public Comment:
Public comment was received from Larry Carlin, CTA.

President Mitchell stated that the current board felt strongly during the current challenged economic times that financial flexibility of limited duration was critical to allow professionals the work needed to serve students, which was a position supported and advanced by the Governor and Legislature. In addition, he stressed that the board was interested in allowing flexibility to nontraditional programs that used technology differently and thus changing the human capital mix or in this case nontraditional programs that served nontraditional students. Finally, President Mitchell reminded the public that this was a board that consistently sought to reward success with increasing degrees of autonomy and flexibility.

ACTION: Member Arkatov moved to approve the Orange County Department of Education's request to have an independent study ratio of 35 to one with the following conditions:

1. All additional revenues generated by independent study students will be spent on services for those students;

2. The Orange County Department of Education (DE) must provide an annual report of expenditures to the California Department of Education; and

3. California *Education Code* (*EC*) 33050(b) will not apply, so the county must request a renewal to continue the waiver.

Member Cushman seconded the motion. The board voted, by a show of hands, 8-1 to approve the motion. Member Chan voted against the motion. Member Williams abstained from the vote. Member Fang was absent for the vote.

Item 35: Standardized Testing and Reporting Program: Approve Commencement of a 15-Day Public Comment Period for Proposed Changes to the *California Code of Regulations,* Title 5, Sections 850 Through 868.

Presenter: Rachel Perry, Director of the Assessment, Accountability & Awards Division presented on this item.

Public Comment:
Public comment was received from Roger Yoho, Corona-Norco Unified School District; Sherry Griffith, ACSA; and Doug McRae, consultant.

Vice President Bloom asked CDE staff to clarify whether the amendments presented were minor in scope, and Ms. Perry confirmed that the changes were not substantive.

ACTION: Member Williams moved to adopt the CDE recommendation that the SBE take the following actions:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and California Department of Education (CDE) is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's November 2010 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Lopez seconded the motion. The board voted, by a show of hands, 7-0 to approve the motion. Members Arkatov, Austin, Fang, and Mitchell were absent for the vote.

WAIVER REQUEST CONSENT MATTERS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in the *Education Code* or in the *California Code of Regulations*, Title 5.

The following agenda items were proposed for approval on the waiver request consent calendar: WC-1 through WC-17.

Public Comment: Public comment was not offered on the waiver request consent calendar.

ACTION: Member Chan moved to approve the waiver consent calendar. Member Lopez seconded the motion. The board voted, by a show of hands, 8-0 to approve the motion. Members Austin, Fang, and Mitchell were absent for the vote.

Item WC-1 General
Subject: Request by Sebastopol Union Elementary School District to waive *California Code of Regulations*, Title 5, Section 11960(b) to allow Sebastopol Independent Charter to reduce the charter school year to less than 175 days without a fiscal penalty.
Waiver Number: 24-6-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-2 Specific
Subject: Request by Orcutt Union Elementary School District, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the maximum overall class size average is 31 to one with no class larger than 33. For grades one to three, the maximum overall class size average is 30 to one with no class larger than 32. The district requests to increase its maximum overall average to 33 and its maximum individual class size to 35 to one for kindergarten through grade three, retroactively for fiscal year 2009-10 and prospectively for 2010-11.
Waiver Number: 19-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-3 Specific
Subject: Request by Central Elementary School District under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, allowable class size average is 31 to one with no class larger than 33. For grades one to three, allowable class size average is 30 to one with no class larger than 32. The district requests to increase overall average to 33 and individual class size to 35 to one, for kindergarten through grade three prospectively (2010-11 and 2011-12 fiscal years).

Waiver Number: 23-6-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-4 Federal
Subject: Request by Acton-Agua Dulce Unified School District for Vasquez High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-212-2010
(Recommended for APPROVAL)

Item WC-5 Federal
Subject: Request by Fall River Joint Unified School District for Burney and Fall River Junior-Senior High Schools for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-418-2010
(Recommended for APPROVAL)

Item WC-6 Federal
Subject: Request by River Delta Joint Unified School District for Rio Vista High and Delta High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-421-2010
(Recommended for APPROVAL)

Item WC-7 Federal
Subject: Request by Sacramento Academic and Vocational Academy for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-417-2010
(Recommended for APPROVAL)

Item WC-8 Federal
Subject: Request by Shandon Joint Unified School District for Shandon High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-205-2010
(Recommended for APPROVAL

Item WC-9 General
Subject: Request by Las Lomitas Elementary School District to waive portions of the California *Education Code* sections 17455, 17466, 17472, and 17475 and all of 17473 and 17474, specific statutory provisions for the sale and lease of surplus property. Approval of the waiver would allow the district to lease a piece

of property using a “request for proposal” process, thereby maximizing the proceeds from the lease of the former Ladera School site.
Waiver Number: 37-6-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-10 Specific
Subject: Request by Del Norte County Office of Education under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for four small schools: Elk Creek School, McCarthy Alternative Education Center, Del Norte County Community Day School Elementary, and Del Norte County Community Day School Secondary.
Waiver Number: 10-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-11 Specific
Subject: Request by Plumas County Office of Education under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for three small alternative schools, Plumas County Community School, Plumas Opportunity School, and Portola Opportunity School.
Waiver Number: 21-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-12 Specific
Subject: Request by Ojai Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2009-10 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 34-5-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-13 General
Subject: Request by Clovis Unified School District to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Amanda Bosworth and Heather Jordan to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 11-7-2010 and 12-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-14 General
Subject: Request by Clovis Unified School District for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of
July 1, 2009, to allow Cassandra Hale and Sara Lloyd to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 13-7-2010 and 17-7-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-15 Specific
Subject: Request by Centralia Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Elizabeth Martinez is assigned at Walter Knott School.
Waiver Number: 33-5-2010
(Consent due to SBE Streamlined Waiver Policy Only)
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-16 General
Subject: Request by Arcadia Unified School District to waive the State Testing Apportionment Information Report and Certification deadline of December 31 in the *California Code of Regulations*, Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination.
Waiver Number: 11-6-2010
(Recommended for APPROVAL)

Item WC-17 General
Subject: Request by Fremont Unified School District to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704, and portions of 11963.4(a)(3), related to charter school independent study
pupil-to-teacher ratios to allow an increase from a 25:1 to a 27.5:1 pupil-to-teacher ratio at Circle of Independent Learning Charter School.
Waiver Number: 2-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

END OF REQUEST WAIVER CONSENT MATTERS

PROPOSED WAIVER CONSENT MATTERS

The following waiver items on the Non-consent Agenda were proposed for consent: W-1 through W-16, W-22 through W-25, W-27 through W-32, W-34 and W-35, and W-37 and W-38.

Public Comment:
Public comment was received from Larry Carlin, CTA; Sandra Thornton, CTA; Pixie Hayward-Schickele, CTA; and Doreen McGuire Griggs, CTA.

ACTION: Member Aschwanden moved to approve the Proposed Waiver Request Consent Items W-1 through W-16, W-22 through W-25, W-27 through W-32, W-34 and W-35, and W-37 and W-38. Member Lopez seconded the motion. The board voted, by a show of hands, 8-0 to approve the motion. Members Austin, Fang, and Mitchell were absent for the vote.

Item W-1 General
Subject: Request by Ukiah Unified School District to waive *California Code of Regulations*, Title 5, Section 11960(b) to allow Academy of the Redwoods to reduce their charter school year to less than 175 days without fiscal penalty.
Waiver Number: 9-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-2 Specific
Subject: Request by Desert Sands Unified School District under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* Section 41376 (a), (c), and (d), relating to class size penalties for grades one through three. Allowable class size average is 30 to one with no class larger than 32 for grades one to three. The district requests to increase overall average and individual class size to 33 to one, prospectively, (2010-11 and 2011-12 fiscal years).
Waiver Number: 49-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-3 Specific
Subject: Request by Los Banos Unified School District under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d), relating to class size penalties for grades one through three. The maximum overall class size average is 30 to one with no class larger than 32. The district requests to increase overall average and individual class size to 31, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 27-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-4 Specific

Subject: Request by Richland Union Elementary School District under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* Section 41376 (a), (c), and (d), relating to class size penalties for grades one through three. Allowable class size average is 30 to one with no class larger than 32. The district requests to increase overall average and individual class size to 33, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 31-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-5 General
Subject: Request by Coalinga-Huron Joint Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 34 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 51-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-6 General
Subject: Request by Desert Sands Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 33 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 48-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-7 General
Subject: Request by Kerman Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 33 to one, prospectively
(2010-11 and 2011-12 fiscal years).
Waiver Number: 16-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-8 General
Subject: Request by Lincoln Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 31 to one, prospectively
(2010-11 and 2011-12 fiscal years).
Waiver Number: 5-6-2010

(Recommended for APPROVAL WITH CONDITIONS)

Item W-9 General
Subject: Request by Los Banos Unified School District Request by Los Banos Unified School to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 33 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 32-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-10 General
Subject: Request by Manteca Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 34 to one, prospectively
(2010-11 and 2011-12 fiscal years).
Waiver Number: 26-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-11 General
Subject: Request by Ramona City Unified School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 31.1 to one and the district requests to increase the average to 33 to one, prospectively
(2010-11 and 2011-12 fiscal years).
Waiver Number: 8-6-2010
(Recommended for APPROVAL WITH CONDITIONS

Item W-12 General
Subject: Request by Redwood City Elementary School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an average of 29.9 to one and the district requests to increase the average to 32 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 34-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-13 General
Subject: Request by Richland Union Elementary School District to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. The district's current class size

maximum is an average of 29.9 to one and the district requests to increase the average to 33 to one, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 30-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-14 Specific
Subject: Request by Lincoln Unified School District under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and Section 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, allowable class size average is 31 to one with no class larger than 33. For grades one to three, allowable class size average is 30 to one with no class larger than 33. The district requests to increase overall average to 32 and individual class size to 34 to one for kindergarten, and overall average to 31 and individual class size to 33 to one for grades one through three, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 4-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-15 Specific
Subject: Request by Oakley Union Elementary School District under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and Section 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, allowable class size average is 31 to one with no class larger than 33. For grades one to three, allowable class size average is 30 to one with no class larger than 32. The district requests to increase overall average to 31 and individual class size to 34 to one for kindergarten through grade three, prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 13-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-16 Specific
Subject: Request by Willows Unified School District under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, allowable class size average is 31 to one with no class larger than 33. For grades one to three, allowable class size average is 30 to one with no class larger than 32. The district requests to increase overall average to 33 and individual class size to 36 to one, for kindergarten through grade three prospectively (2010-11 and 2011-12 fiscal years).
Waiver Number: 15-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-22 Petition
Subject: Petition request under the authority of California *Education Code* sections 60421(d) and 60200(g) by Fresno County Office of Education to purchase specified non-adopted instructional materials for severely disabled children using Instructional Materials Funding Realignment Program monies.
Waiver Number: 38-5-2010
(Recommended for APPROVAL)

Item W-23 General
Subject: Request by Santa Maria Joint Union High School District for a renewal to waive portions of California *Education Code* Section 51222(a), related to the statutory minimum requirement of 400 minutes of physical education each ten school days for students in grades nine through twelve in order to implement a block schedule at Santa Maria High School and Pioneer Valley High School.
Waiver Number: 43-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-24 General
Subject: Request by Big Pine Unified School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce their class sizes by an average of five students per class by the end of the 2010–11 school year at Big Pine Elementary School (requesting 24:1 ratio on average in grades four through eight).
Waiver Number: 20-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-25 General
Subject: Request by Parlier Unified School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce their class sizes by an average of five students per class by the end of the 2010–11 school year at Parlier High School (requesting 20:1 ratio on average in core classes in grades nine through twelve).
Waiver Number: 12-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-27 General
Subject: Request by Moreno Valley Unified School District for a renewal to waive portions of California *Education Code* Section 15282, regarding term limits for members of a Citizens' Oversight Committee for all construction bonds in the district.
Waiver Number: 10-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-28 General
Subject: Request by Amador County Office of Education to waive California *Education Code* sections 1004 and 5020, and portions of sections 5019, 5021, and 5030 that require elections to establish new trustee areas and to reduce the number of governing board members from seven to five.
Waiver Number: 29-6-2010
(Recommended for APPROVAL)

Item W-29 Specific
Subject: Request by Del Norte County Unified School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for each schoolsite council for two small elementary schools, Margaret Keating Elementary and Mountain Elementary.
Waiver Number: 18-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-30 Specific
Subject: Request by Maricopa Unified School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools, Maricopa Elementary School and Maricopa High School.
Waiver Number: 30-5-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-31 Specific
Subject: Request by Southern Trinity Joint Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council with a reduced number and composition to function for three small schools: Van Duzen Elementary School, Southern Trinity High School, and Mt. Lassic Continuation High School.
Waiver Number: 35-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-32 Specific
Subject: Request by Yolo County Office of Education under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council with a reduced number and composition to function for two small alternative education schools, Dan Jacobs School and Midtown Community School.
Waiver Number: 25-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-34 General

Subject: Request by Hanford Elementary School District for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Edward Bielik to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 37-5-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-35 General
Subject: Request by Sutter County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Lana Sadrin and Julie Newton to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 40-6-2010, 42-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-37 Federal
Subject: Request by 45 local educational agencies to waive up to six types of requirements pertaining to Title I, Part A of the Elementary and Secondary Education Act relating to the American Recovery and Reinvestment Act allocations for the
2009–10 fiscal year only.
(Recommended for APPROVAL)

Item W-38 General
Subject: San Diego Unified School District for a waiver of portions of California Education Code 47652(b) in order to allow the Gompers Preparatory Academy to receive an advanced apportionment for students in the former Gomper's Middle School, now merged with the Gompers Preparatory Academy.
Waiver Number: 21-8-2010
(Recommended for APPROVAL)

END OF PROPOSED WAIVER CONSENT MATTERS

Item W-17 General
Subject: Request by Corcoran Joint Unified School District for a waiver of California *Education Code* Section 48916.1(d) and portions of *Education Code* Section 48660 to permit the establishment of a community day school for students in grades six through twelve, and portions of *Education Code* Section 48661(a) relating to the placement of a community day school, Mission

Community Day School on the same site as Kings Lake Continuation High School.
Waiver Number: 39-5-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-18 General
Subject: Request by Los Molinos Unified School District for a waiver California *Education Code* Sections 48916.1(d) and portions of Section 48660 to permit a community day school to serve students in grades six with students in grades seven through twelve.
Waiver Number: 3-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-19 General
Subject: Request by Lucerne Valley Unified School District for a waiver of California *Education Code* Section 48916.1(d) and portions of *Education Code* Section 48660 to permit a community day school to serve students in grades three through six with students in grades seven through twelve.
Waiver Number: 9-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-20 General
Subject: Request by Trona Joint Unified School District for a renewal waiver of portions of California *Education Code* sections 48660 and 48916.1(d) to permit a community day school to serve students in grades five and six with students in grades seven through twelve at Trona Community Day School.
Waiver Number: 22-6-2010
(Recommended for APPROVAL) *EC* 33051(b) will apply.

Presenter: Christine Gordon from the Waiver Office and Daniel Sacheim from the Learning Support & Partnership Division presented on these waiver requests.

Public Comment:
Public comment was not offered for these waiver requests.

ACTION: Member Aschwanden moved to approve CDE's recommendations with conditions for waiver items W-17 through W-20. Member Lopez seconded the motion. The board voted, by a show of hands, 8-0 to approve the motion. Members Austin, Fang, and Mitchell were absent for the vote.

Item W-26 Specific
Subject: Request by Centralia Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations,* Title 5, Section 3100 to waive *Education Code* 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). Jill Aldeen is assigned at Danbrook School, and Jennifer Mercer is assigned at Centralia School.
Waiver Number: 7-8-2010
(Recommended for DENIAL)

Presenter: Christine Gordon from the Waiver Office and Fred Balcom, Director of the Special Education Division, presented on this waiver request.

Member Chan expressed frustration that the board was asked to take action on an agenda item that was retroactive for the 2009-10 academic school year, and asked CDE staff to clarify what a denial of the proposed waiver would mean for the district. Mr. Balcom acknowledged that the district would not be reprimanded for being denied something that already took place, but that the CDE now had its monitoring system identified in a way that would keep the board apprised of the district's dealings on this issue.

Public Comment:
Public comment was received from Sandra Thornton, CTA.

ACTION: Member Chan moved to approve CDE's recommendation to deny the school district's waiver request. Member Lopez seconded the motion. The board voted, by a show of hands, 6-0 to approve the motion. Members Arkatov, Cushman, Fang, Mitchell, and Williams were absent for the vote.

Item W-33 General
Subject: Request by Clovis Unified School District for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Dawn Arii, Elizabeth Gonzalez, and Julia Keller to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 14-7-2010, 15-7-2010, and 16-7-2010
(Recommended for DENIAL)

Presenter: Christine Gordon from the Waiver Office presented on this waiver request.

Public Comment:
Public comment was not offered on this waiver request.

As way of background for new board members and members of the public, Member Chan stated that the board had approved a waiver policy for educational interpreters who had not met regulatory standards. Member Chan explained that

in approving the waiver policy, the board weighed the importance of assisting educational interpreters who had failed to achieve the requisite score on the interpreter examinations against the need for school districts to provide sound educational interpreters who could effectively assist students in need of quality interpreter services.

ACTION: Member Chan moved CDE's recommendation to deny the waiver request. Member Lopez seconded the motion. The board voted, by a show of hands, 7-0, to approve the motion. Members Arkatov, Fang, Mitchell, and Williams were absent for the vote.

Item W-36 General
Subject: Request by Kings County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Mary Beth Yates, to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 21-7-2010
(Recommended for DENIAL)

Presenter: Christine Gordon from the Waiver Office presented on this waiver request.

Public Comment:
Public comment was not offered on this waiver request.

ACTION: Member Chan moved CDE's recommendation to deny the waiver request. Member Lopez seconded the motion. The board voted, by a show of hands, 7-0 to approve the motion. Members Arkatov, Fang, Mitchell, and Williams were absent for the vote.

Item 37
Subject: Review *California Code of Regulations*, Title 5, Section 3100, Which Allows Waivers of *Education Code* Section 56362(c), Allowing the Caseload of the Resource Specialist to Exceed the Maximum Caseload of 28 Students by Not More Than Four Students (32 Maximum).

Presenter: Fred Balcom, Director of the Special Education Division presented on this waiver request.

Public Comment:

Public comment was received from Sandra Thornton and Larry Carlin with the CTA; and Jim Woodhead, Advisory Commission on Special Education.

****ADJOURNMENT OF DAY'S SESSION****

President Mitchell adjourned the meeting at 4:21 p.m.

*****ADJOURNMENT OF MEETING*****

State Board of Education
State Board of Education Board Room
November 9-10, 2010
Draft Minutes

Please note that the complete proceedings of the May 2011State Board of Education meeting, including close captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Ted Mitchell, President
Ruth Bloom, Vice President
Alan Arkatov
James Aschwanden
Benjamin Austin
Yvonne Chan
Gregory Jones
David Lopez
Johnathan Williams
Connor Cushman, Student Member

Members Absent:
Alan Arkatov- Wednesday only
James Fang-Tuesday and Wednesday

Secretary and Executive Officer
Jack O'Connell, State Superintendent of Public Instruction

Principal Staff
Nicolas Schweizer, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Program Consultant, SBE
Regina Wilson, Program Communications Analyst, SBE
Geno Flores, Chief Deputy Superintendent, California Department of Education (CDE)
Amy Holloway, General Counsel, CDE
Jill Rice, General Counsel, CDE
Jaime Hastings, Associate Government Analyst, CDE

CLOSED SESSION

Amy Holloway, General Counsel for the CDE reported out of closed session, that the board voted to support the settlement in the matter of *Reed v. State of California, Los*

Angeles Unified School District, State Superintendent of Public Instruction, California Department of Education, and State Board of Education, et al.

Item 1: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; board liaison reports, and other matters of interest.

No action was taken on this item.

Item 2: Local Education Agency Reductions in Force: Approve Commencement of the Rulemaking Process to Add Section 5505 to *Title 5* of the *California Code of Regulations (CCR)*.

ACTION: Member Austin moved to approve SBE's staff recommendation that the board:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the California Department of Education to commence the rulemaking process.

Member Chan seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Arkatov and Lopez were absent for the vote.

Item 3: Promotion of a Web-based Clearinghouse for Sharing Teacher and Principal Performance Evaluation Practices, Model Policies, and Reform Efforts.

ACTION: Member Arkatov moved to table the CDE's staff recommendation and have Member Arkatov and the SBE Board President work with Chief Deputy Geno Flores and CDE staff to bring forward a recommendation to include the funding, framework and organization for the Web site with the intent that the Web site be agnostic regarding the benefits of any particular evaluation method or models; allow users to comment on the evaluation methods or models posted on the website; and be as visible as possible with a link on the CDE homepage. Member Bloom seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

Item 4: Adopt Policy Guidance for Considering Streamlined Waiver Requests from School Districts that Implement District wide, or Pilot at Selected School Sites, and Use Teacher and Administrator Evaluation Systems to Inform all Employment Decisions.

ACTION: Member Bloom moved to table the policy guidance for considering streamlined waivers request until the December 2010 board meeting, and directed SBE staff to work with the CDE Waiver Office to further refine the proposed language. Member Cushman seconded the motion. The board voted, by show of hands, 6-1 to approve the motion. Members Arkatov, Lopez, and Williams were absent for the vote.

Yes votes: Members Aschwanden, Austin, Bloom, Chan, Cushman, and Jones
No vote: President Mitchell

Item 5: Inclusion of Teacher and Principal Evaluation System Information on the School Accountability Report Card: Approve Commencement of the Rulemaking Process to Add Section 150 to *Title 5* of the *CCR*.

ACTION: Member Austin moved to approve SBE's staff recommendation to:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the California Department of Education to commence the rulemaking process.

Member Chan proposed a friendly amendment to have the CDE and SBE staff work together to demonstrate that the data evaluation fields could be pre-populated by the CDE, which was accepted by Member Austin. Member Chan seconded the motion. The board voted, by show of hands, 9-1 to approve the motion.

Yes votes: Members Arkatov, Austin, Bloom, Chan, Cushman, Jones, Lopez, Mitchell, and Williams
No vote: Member Aschwanden

Item 6: Accountability Report Cards: Approve the Template for the 2009–10 School Accountability Report Card, the 2009–10 Local Educational Agency Accountability Report Card, and the 2009–10 State Accountability Report Card.

- **ACTION:** Member Aschwanden moved to approve CDE's staff recommendation for the proposed template for the 2009–10 School Accountability Report Card, the 2009–10 Local Educational Agency

Accountability Report Card, and the 2009–10 State Accountability Report Card that will be published during the 2010-11 school year.

Member Lopez proposed a friendly amendment to calendar this agenda item for the board's July 2011 meeting. Member Aschwanden accepted a friendly amendment. Member Lopez seconded the motion. The board voted, by show of hands 7-2 to approve the motion. President Mitchell was absent for the vote.

Yes votes: Members Arkatov, Ashwanden, Bloom, Chan, Cushman, Lopez, and Williams
No votes: Members Austin and Jones

Item 7: State Performance Plan for Part B of the Individuals with Disabilities Education Act Covering Program Year 2009–10.

ACTION: Member Chan moved to adopt the CDE's staff recommendation and approve an additional two years of measurable and rigorous targets for the 20 performance indicators included in the 2005 State Performance Plan (SPP) for Part B of the Individuals with Disabilities Education Act (IDEA), as amended, as well as an update to Indicator 15 to describe the CDE's general supervision and monitoring system, covering program year 2009–10. SBE further directed CDE staff to work with the SBE liaison and staff to make any necessary revisions to the SPP. Member Cushman seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Arkatov was absent for the vote.

Item 8: Charter Renewal - Approve Commencement of the Rulemaking Process to add *California Code of Regulations,* Title 5, sections 11966.4, 11966.5, and 11966.6, and to amend Section 11967.5.1.

ACTION: Member Williams moved to approve the CDE's staff recommendation that the board take the following actions:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the CDE to commence the rulemaking process.

Member Bloom seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Arkatov and Cushman were absent for the vote.

Item 9: Charter Revocation Pursuant to California *Education Code* Section 47604.5(c) - Adopt Proposed *CCR,* Title 5, Section 11968.5.

ACTION: Member Chan moved to approve the CDE's staff recommendation that the board take the following actions:

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Austin seconded the motion. The board voted, by show of hands, 8-0 and 1 abstention to approve the motion. Member Arkatov was absent for the vote.

Abstention: Member Bloom

Item 10: Charter Revocation and Revocation Appeals - Approve Commencement of Second 15-Day Public Comment Period for Proposed Amendments to *CCR,* Title 5 Sections 11965, 11968.1, 11968.5.1, 11969.1, 11969.2, 11969.3, 11969.4, and 11969.10.

ACTION: Member Williams moved to approve CDE's staff recommendation to take the following actions:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a second 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the second15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the second 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's January 2011 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Jones seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Arkatov and Chan were absent for the vote.

Item 11: Elementary and Secondary Education Act: Supplemental Educational Services – Approve Commencement of 15-Day Public Comment Period for Proposed Changes to Proposed *CCR, Title 5,* Sections 13075.1 Through 13075.9 (inclusive).

This item was withdrawn.

Item 12: Update on Funding Determinations for Nonclassroom-based Charter Schools under Senate Bill 740. Review of the (1) State Board of Education Policy and Procedure to Request Waivers of the Pupil-Teacher Ratio Requirement, (2) Method and Criteria to Evaluate Requests for Funding Determinations Based on *CCR,* Title 5, Section 11963.4(e), and (3) Consideration of Student Performance Measures in Evaluating Funding Determinations Requests.

ACTION: Member Arkatov moved to approve the CDE's staff recommendation that (1) the Advisory Commission on Charter Schools (ACCS) develop a recommendation for funding non-classroom based charter schools using student performance measures; and (2) the SBE follow past practice for evaluating requests for changes in funding determinations that include the consideration of a "reasonable basis"/mitigating circumstance by:

- Submitting requests to waive the pupil-teacher ratio to the CDE Waiver Office prior to submission to the ACCS; and

- Continuing to individually consider each request of a "reasonable basis"/mitigating factor, which is based on the current school year on a case-by-case basis.

Member Arkatov added that CDE and SBE staff prepare a board item to describe key issues relating to establishing a task force for a non-classroom based education, including organization, budget, scope, membership, and timeline for the December 2010 board meeting. Member Aschwanden seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Lopez and Jones were absent for the vote.

Item 13: Request for Budget Crisis Mitigating Circumstances Flexibility for Current Senate Bill 740 Funding Determinations for the 2009–10 school year for California Virtual Academy at Kern, California Virtual Academy at Jamestown, California Virtual Academy at Sonoma, California Virtual Academy at Sutter, California Virtual Academy at San Mateo, California Virtual Academy at Kings, Desert Sands Charter High School, Vista Real Charter High School, Crescent View West Charter School,

Antelope Valley Learning Academy, Mission View Public School, and Sierra Charter School.

ACTION: Member Chan moved to approve CDE's staff recommendation to approve the requests for the 2009–10 school year allow the inclusion of mitigating circumstances in the determination of funding rates required by *EC* sections 47612.5 and 47634.2 and implemented through 5 *CCR* Section 11963.4(e) for the following schools:

- California Virtual Academy at Kern,
- California Virtual Academy at Jamestown,
- California Virtual Academy at Sonoma,
- California Virtual Academy at Sutter,
- California Virtual Academy at San Mateo,
- California Virtual Academy at Kings,
- Desert Sands Charter High School,
- Vista Real Charter High School,
- Crescent View West Charter School,
- Antelope Valley Learning Academy,
- Mission View Public School, and
- Sierra Charter School.

Member Arkatov seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Jones was absent for the vote.

Item 14: Standardized Testing and Reporting Program: Approval of California Modified Assessment Proposed Performance Standards Setting for English-Language Arts in Grade Nine, Algebra I, and Life Science in Grade Ten and to Conduct the Regional Public Hearings.

ACTION: Member Aschwanden moved to adopt CDE's staff recommendation to approve the State Superintendent of Public Instruction's proposed performance standards (levels) for the California Modified Assessment (CMA) for English-language arts (ELA) in grade nine, Algebra I, and life science in grade ten.

The SBE further directed the CDE and SBE staff to conduct regional public hearings on the proposed performance standards (levels) for the CMA for ELA in grade nine, Algebra I, and life science in grade ten to be brought to the SBE at the January 2011 board meeting for adoption, in compliance with *EC* Section 60605 requiring the SBE to adopt statewide performance standards (levels). Member Mitchell seconded the motion. The board voted, by show of hands, 7-0 and 1 abstention to approve the motion. Members Arkatov and Williams were absent for the vote.

Abstention: Member Austin

Item 15: Reports from the 2010-2011 Student Advisory Board on Education (SABE).

No action was taken on this item.

Item 16: 2011-12 State Board of Education Student Member: Recommendation of Three Finalists for Submission to the Governor.

ACTION: Member Cushman moved to approve the SBE's Screening Committee recommendation of the three finalists for the position of State Board of Education Student Member, which included Caitlin Snell, Jonathan Jeffrey, and Catherine Mitchell. Member Chan seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Lopez and Arkatov were absent for the vote.

Item 17: Notification to School Districts Regarding Unlawful Charges of Mandatory Student Fees for Educational Activities, Supplies, and Equipment.

ACTION: Member Aschwanden moved to approve SBE's staff recommendation that the SBE President and the State Superintendent of Public Instruction jointly draft a letter to school districts in California to:

1) Inform them that charging mandatory student fees for educational activities for curricular or extracurricular purposes, supplies, and equipment violates the California Constitution and state laws; and

2) Request that they review their policies to ensure that no fees be charged in violation of the law.

Member Austin seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Arkatov and Lopez were absent from the vote.

**** PUBLIC HEARING****

Item 18: Petition for Establishment of a Charter School Under the Oversight of the State Board of Education: Consideration of the Request of Barack Obama Middle School, which was denied by the Compton Unified School District and the Los Angeles County Board of Education.

ACTION: Member Chan moved to approve CDE's staff recommendation for the petition to establish the Barack Obama Middle School (BOMS) under the oversight of the SBE, and incorporate the following provisions in its approval action:

- The SBE's Conditions on Opening and Operation, as set forth in Attachment 1.

- Modifications to the charter in accordance with the CDE report, as set forth in detail in Attachment 1, and as follows:

    - Racial and Ethnic Balance, California *Education Code (EC)* Section 74605(b)(5)(G) and *5* CCR Section 11967.5.1(f)(7): The CDE recommends a technical amendment to the charter petition to clarify that the outreach plan will be regularly reviewed and revised as necessary to ensure racial and ethnic balance.

    - Measurable Pupil Outcomes, *EC* Section 47605(b)(5)(B): The CDE recommends a technical amendment to change the measurable pupil outcomes from the level of basic to the levels of proficient or advanced.

    - Admission Requirements, *EC* Section 47605(d)(2): The CDE recommends a technical amendment to the BOMS charter to ensure that the admission requirements comply with applicable federal and state laws, specifically *EC* Section 47605(d)(2)(B).

    - Annual Independent Financial Audits, *EC* Section 47605(b)(5)(I): BOMS petitioners have agreed to make a technical amendment to reflect SBE authorization that addresses the resolution of any audit exception and deficiencies to the SBEs satisfaction.

    - Suspension and Expulsion Procedures, *EC* Section 47605(b)(5)(J): Technical amendments are necessary to clarify the preliminary list of offenses by which students must or may be suspended is to be separate from the list of offenses for which students must or may be expelled, evidence that non-charter schools lists of offenses are procedures were reviewed, and the annual review of policies and procedures surrounding suspension and/or expulsion as required by 5 *CCR* sections 11967.5.1(f)(10)(A), 11967.5.1(f)(10)(D), 11967.5.1(f)(10)(E)(2).

    - As part of the MOU established by CDE and BOMS, that at the beginning of any closure or revocation process, or one year before renewal is to be considerer, BOMS shall immediately provide at its own expense a written notification to every parent, guardian, or caregiver all options available (including specific schools) for students to transfer, if it is needed or desired and any administrative assistance required to provide for a timely transfer.

- Specification of a five-year term beginning July 1, 2011, and ending June 30, 2016.

- Termination of the charter if the school does not open between July 1, 2011, and September 30, 2011.

Member Williams seconded the motion. The board voted, by show of hands, 1-7 and the motion failed. Members Arkatov and Lopez were absent for the vote.

Yes vote: Member Chan
No votes: Members Aschwanden, Austin, Bloom, Cushman, Jones, Mitchell, and Williams

****END OF PUBLIC HEARING****

Item 19: Elementary and Secondary Education Act: Performance Objectives Presented by the State Trustee for the Alisal Union Elementary School District for State Board of Education Approval.

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to adopt the performance objectives presented by Carmella S. Franco, State Trustee of the Alisal Union Elementary School District (AUESD) pursuant to the Memorandum of Understanding between the SBE and the AUESD State Trustee. The motion was made with the understanding that the board very clearly heard the concerns about communication in the district, and would like the comprehensive assessment report to specifically focus on items four, six, and seven for the corrective action plan that is being prepared for the board to review that is due at the end November 2010. Member Chan proposed a friendly amendment to replace "with the understanding" with "the condition" which was accepted by Member Aschwanden. Member Austin seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Members Bloom, Lopez, and Williams were absent for the vote.

Item 20: 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.

No action was taken on this item.

Item 21: Elementary and Secondary Education Act: Recommended Options for Round Valley Unified School District: Identify Potential Trustees and Define Issues, Budget Control, and Any Decision-making Authorities that Are Impeding Student Academic Progress; or Appoint an Independent Trustee with Full Authority for Round Valley Unified School District.

This item was not heard.

CONSENT CALENDAR

The following items were proposed for the regular consent calendar: 23 and 25.

ACTION: Member Aschwanden moved to approve the consent calendar for items 23 and 25. Member Bloom seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Arkatov and Lopez were absent for the vote.

Item 23: Elementary and Secondary Education Act: Approve Local Educational Agency Plans, Title I, Section 1112.

Item 25: Standardized Testing and Reporting Program: Release of the 10 Percent of Funds Withheld for 2009–10 Educational Testing Service Contract.

END OF CONSENT CALENDAR

Item 24: Elementary and Secondary Education Act: Supplemental Educational Services Providers: Removal from the 2008–10, 2009–11, and 2010–12 Approved Lists for Failure to Submit the 2009–2010 Supplemental Educational Services Accountability Report.

ACTION: Member Aschwanden moved to approve the CDE recommendation to remove 45 Supplemental Educational Services (SES) providers from the approved 2008–2010, 2009–2011, and/or 2010–2012 lists, with the exception of the Achievement Academy, Say Yes to Life, Huntington Learning and Boston Learning who will be allowed, along with 39 other SES providers, to correct and submit their 2009–10 Accountability Report by December 10, 2010. Member Jones seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Arkatov and Lopez were absent for the vote.

WAIVER REQUEST CONSENT MATTERS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in the California *EC* or in the *CCR*, Title 5.

The following agenda items were proposed for approval on the waiver consent calendar: WC-1 through WC-16.

ACTION: Member Aschwanden moved to approve the waiver consent calendar. Member Chan seconded the motion. The board voted, by a show of hands, 6-0 to approve the motion. Members Arkatov, Austin, Bloom, and Lopez were absent for the vote.

Item WC-1 General
Subject: Request by Los Angeles Unified School District for Ivy Academia to waive *CCR*, Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (2 tracks; 177 days one track grades K–8);178 days one track grades 9–12).
Waiver Number: 6-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-2 General
Subject: Request by West Sonoma County Union High School District to waive *CCR*, Title 5, Section 11960(b) to allow the Russian River Charter School to reduce the charter school year to less than 175 days without a fiscal penalty.
Waiver Number: 23-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-3 Federal
Subject: Request by Carpinteria Unified School District for Carpinteria Senior High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-573-2010
(Recommended for APPROVAL)

Item WC-4 Federal
Subject: Request by El Tejon Unified School District for Frazier Mountain High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-436-2010
(Recommended for APPROVAL)

Item WC-5 Federal
Subject: Request by Warner Unified School District for Warner Junior/Senior High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).

Waiver Number: Fed-571-2010
(Recommended for APPROVAL)

Item WC-6 Federal
Subject: Request by Waterford Unified School District for Waterford High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-567-2010
(Recommended for APPROVAL)

Item WC-7 Specific
Subject: Request by Oakland Charter High School under the authority of California *EC* Section 47612.6(a) to waive *EC* 47612.5 (c) the audit penalty for offering less instructional time in the 2008-09 fiscal year for students in grades nine through eleven (shortfall of 2,640 minutes) (Revision of waiver number 11-4-2010-W-12).
Waiver Number: 16-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-8 Specific
Subject: Request by Napa Valley Unified School District under the authority of California *EC* Section 46200 to waive *EC* Section 46206(c) audit penalty for offering less instructional time in the 2008-09 fiscal year at Alta Heights Elementary School, for students in grades four and five (shortfall of three days).
Waiver Number: 23-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-9 Specific
Subject: Request by Pasadena Unified School District under the authority of California *EC* Section 46206(a) to waive *EC* Section 46200(c) audit penalty for offering less instructional time in the 2007-08 fiscal year at John Muir High School for students in grades nine through twelve (shortfall of two days).
Waiver Number: 30-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-10 General
Subject: Request by Junction Elementary School District to waive portions of California *EC* Section 5091, which will allow the board of trustees to make a provisional appointment to a vacant board position past the 60-day statutory deadline.
Waiver Number: 10-8-2010
(Recommended for APPROVAL)

Item WC-11 Specific
Subject: Request by Golden Feather Union Elementary School District under the authority of California *EC* Section 52863 for a waiver of *EC* Section 52852, allowing

one joint schoolsite council to function for two schools, Concow Elementary and Golden Feather Community Day School.
Waiver Number: 39-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-12 Specific
Subject: Request by Lassen View Union Elementary School District under the authority of California *EC* Section 52863 for a renewal waiver of *EC* Section 52852, allowing one joint schoolsite council to function for two small schools, Lassen View Elementary School and Lassen View Community Day School.
Waiver Number: 3-9-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-13 Specific
Subject: Request by Fallbrook Union High School District to waive California *EC* Section 51224.5(b), the requirement that all students graduating in the 2009–10 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation for three special education students based on *EC* Section 56101, the special education waiver authority.
Waiver Number: 22-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-14 General
Subject: Request by Clovis Unified School District for a renewal waiver of *CCR*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Roland Hendrix to continue to provide services to students under a remediation plan to complete those minimum qualifications.
Waiver Number: 25-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-15 General
Subject: Request by San Mateo County Special Educational Local Plan Agency under the authority of California *EC* Section 56101 to waive *EC* Section 56366.1(h), the August 1 through October 31 timeline on annual certification renewal application for Sand Paths Academy, a Nonpublic School.
Waiver Number: 29-7-2010
(Recommended for APPROVAL)

Item WC-16 General
Subject: Request by three local educational agencies to waive the State Testing Apportionment Information Report and Certification deadline of December 31 in the *CCR*, Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.

Waiver Numbers: 27-7-2010, 8-8-2010, and 29-8-2010
(Recommended for APPROVAL)

NON-CONSENT WAIVER ITEMS

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken.

The following waiver items on the Non-consent Agenda were proposed for consent: W-1 through W-16, and W-18 through W-22.

ACTION: Member Bloom moved to approve the proposed waiver request consent items W-1 through W-16 and W-18 through W-22. Member Chan seconded the motion. The board voted, by a show of hands, 7-0 to approve the motion. Members Arkatov, and Lopez were absent for the vote.

Item W-1 General
Subject: Request by eight districts to waive portions of California *EC* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.
Waiver Numbers: 4-9-2010, 5-9-2010, 18-8-2010, 28-7-2010, 11-8-2010, 8-7-2010, 5-7-2010, and 6-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-2 Specific
Subject: Request by two districts, under the authority of California *EC* Section 41382, to waive portions of *EC* Section 41378 (a) through (e), relating to class size penalties for kindergarten. For kindergarten, the overall class size average is 31 to one with no class larger than 33.
Waiver Numbers: 31-7-2010 and 2-7-2010
(Recommended for APPROVAL WITH CONDITIONS)
CLASS SIZE PENALTIES (Over limit on Kindergarten - Grade 3)

Item W-3 Specific
Subject: Request by four districts, under the authority of California *EC* Section 41382, to waive portions of *EC* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33.

For grades one to three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 26-7-2010, 4-7-2010, 22-8-2010, and 24-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-4 Specific
Subject: Request by six districts, under the authority of California *EC* Section 41382, to waive portions of *EC* sections 41376 (a), (c), and (d) relating to class size penalties for grade one through three. For grades one to three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 50-6-2010, 1-6-2010, 31-5-2010, 36-5-2010, 3-7-2010, and 19-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-5 General
Subject: Request by Oakley Union Elementary School District to waive portions of California *EC* Section 41376(b) and (e), relating to class size penalties for grades four through eight. The district's current class size maximum is an overall average of 33 to one and the district requests to increase the maximum to 35 to one, prospectively, (2010-11 and 2011-12 fiscal years).
Waiver Number: 14-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-6 General
Subject: Request by Chaffey Joint Union High School District for a waiver of California *EC* Section 48661(a) to permit the collocation of the district community day school, on the same site with the Chaffey District Adult Education and Independent Studies Complex.
Waiver Number: 7-9-2010
(Recommended for APPROVAL)

Item W-7 General
Subject: Request by Sacramento City Unified School District for a waiver of California *EC* Section 48661(a) to permit the collocation of Success Academy, a community day school, on the same site as Accelerated Academy, a satellite campus of Hiram Johnson High School.
Waiver Number: 8-9-2010
(Recommended for APPROVAL)

Item W-8 General
Subject: Request by Big Valley Joint Unified School District for a waiver of California *EC* Section 48916.1(d) and portions of Section 48660 to permit a community day school to serve students in grades three through six with students in grades seven through twelve.
Waiver Number: 20-8-2010

(Recommended for APPROVAL WITH CONDITIONS)

Item W-9 General
Subject: Request by Chawanakee Unified School District for a waiver of California *EC* Section 48916.1(d) and portions of *EC* Section 48660 to permit a community day school to serve students in grades five and six with students in grades seven through twelve.
Waiver Number: 13-9-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-10 General
Subject: Request by Laytonville Unified School District for a waiver of California *EC* Section 48916.1(d) and portions of Section 48660 to permit a community day school to serve students in grade five and six with students in grades seven through twelve.
Waiver Number: 26-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-11 General
Subject: Request by Riverdale Joint Unified School District for a waiver of California *EC* Section 48916.1(d) and portions of *EC* Section 48660 to permit a community day school to serve students in grades five and six with students in grades seven through twelve.
Waiver Number: 15-9-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-12 General
Subject: Request by Golden Plains Unified School District to waive California *EC* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce their class sizes by an average of five students per class by the end of the 2010–11 school year at San Joaquin Elementary School (requesting 24.3:1 student ratio on average in grade four, and 17.7:1 student ratio on average for grade eight).
Waiver Number: 12-9-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-13 General
Subject: Request by Mendota Unified School District to waive portions of California *EC* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce their class sizes by an average of five students per class by the end of the 2010–11 school year at McCabe Elementary School (requesting 25:1 ratio on average in grade six).
Waiver Number: 47-6-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-14 Specific

Subject: Request by Lagunitas Elementary School District under the authority of California *EC* Section 52863 for a renewal waiver of *EC* Section 52852, allowing one joint schoolsite council to function for two schools, Lagunitas Elementary School and San Geronimo Valley Elementary School.
Waiver Number: 1-9-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-15 Specific
Subject: Request by Big Valley Joint Unified School District under the authority of California *EC* Section 52863 for a waiver of *EC* Section 52852, allowing one joint schoolsite council with a reduced number and composition to function for two small schools: Big Valley Elementary School and Big Valley Jr./Senior High School.
Waiver Number: 19-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-16 General
Subject: Request by Butte County Office of Education for a renewal to waive *CCR*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Paula Beehner, Georgia Hagler, and Elayne Reischman to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 1-8-2010, 2-8-2010, and 4-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-18 General
Subject: Request by Dinuba Unified School District for a renewal to waive *CCR*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Rosa Velasco and Eva Martinez to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 24-7-2010 and 25-7-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-19 General
Subject: Request by Elk Grove Unified School District to waive *CCR*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Maria Klemm, Cara Felix, and Stephanie Rexroth to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 57-3-2010, 58-3-2010, and 59-3-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-20 General

Subject: Request by Escondido Union School District for a renewal to waive *CCR*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Leea Aguirre to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 9-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-21 General
Subject: Request by Shasta County Office of Education for a renewal to waive *CCR*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Tam Balkow, Denise Richardson, and Zebediah Rinesmith to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 12-8-2010, 14-8-2010, and 15-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-22 Specific
Subject: Request by Greenfield Union Elementary School District, under the authority of California *EC* Section 56101 and *CCR,* Title 5, Section 3100, to waive *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). Dr. Bertie Ortiz is assigned at Cesar Chavez Elementary School, Oak Avenue School, and Greenfield Elementary School.
Waiver Number: 2-9-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-17 General
Subject: Request by Butte County Office of Education (COE) to waive *CCR*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Serena Smith to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 3-8-2010
(Recommended for DENIAL)

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to deny the Butte COE waiver request for Serena Smith because it cannot ensure that Ms. Smith can meet the educational needs of the students as required under California *EC* Section 30051(1)(a). Member Chan seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Members Arkatov, Austin, Lopez, and Mitchell were absent for the vote.

Item W-23 General
Subject: Request by Alameda County Office of Education for Families of Alameda for Multi-Cultural/Multi-Lingual Education (FAME) Public Charter School to waive *CCR* Title 5, Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school for the 2006-07 fiscal year.
Waiver Number: 28-3-2008
(Recommended for DENIAL)

ACTION: Member Bloom moved to support CDE's staff recommendation to deny FAME Public Charter School's waiver request. Member Aschwanden seconded the motion. The board voted, by show of hands, 6-1 to approve the denial. Members Arkatov, Austin, and Lopez were absent for the vote.

Yes votes:Members Aschwanden, Chan, Cushman, Bloom, Jones, and Mitchell
No vote: Member Williams

Item 22: Approval of 2010–11 Consolidated Applications.

ACTION: Member Bloom moved to approve CDE's staff recommendation to adopt the 2010–11 Consolidated Applications (ConApps) submitted by local educational agencies (LEAs) in Attachment 1 - Group 1, and Attachments 2-3. Member Aschwanden seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Austin and Mitchell had recused themselves from the vote. Member Arkatov was absent for the vote.

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to adopt the 2010-11 ConApps submitted by LEAs in Attachment 1 - Group 2. Member Williams seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Austin and Mitchell had recused themselves from the vote. Member Arkatov was absent for the vote.

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to adopt the 2010-11 ConApps submitted by LEAs in Attachment 1 - Group 3. Member Cushman seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Arkatov was absent for the vote.

Item 26: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs, Including, but not limited to, School Improvement Grant, Title III Monitoring Response, Review of 29 Local Educational Agencies in Program Improvement Corrective Action (Cohort 3) Revised Local Educational Agency Plans, Title I Monitoring Review, and the California Striving Readers Comprehensive Literacy Program.

No action was taken on this item.

****Adjournment of Meeting ****

State Board of Education
State Board of Education Board Room
December 15, 2010
Draft Minutes

Please note that the complete proceedings of the May 2011State Board of Education meeting, including close captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Ted Mitchell, President
Ruth Bloom, Vice President
Alan Arkatov
James Aschwanden
Benjamin Austin
Yvonne Chan
James Fang
David Lopez
Johnathan Williams
Connor Cushman, Student Member

Members Absent:
Gregory Jones

Secretary and Executive Officer
Jack O'Connell, State Superintendent of Public Instruction

Principal Staff
Nicolas Schweizer, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Program Consultant, SBE
Regina Wilson, Program Communications Analyst, SBE
Geno Flores, Chief Deputy Superintendent, California Department of Education (CDE)
Amy Holloway, General Counsel, CDE
Jaime Hastings, Associate Government Analyst, CDE

Closed Session

No action was taken on this item.

Item 1: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; board liaison reports, and other matters of interest.

No action was taken on this item.

Item 2: 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.

No action was taken on this item.

Item 3: Elementary and Secondary Education Act: Recommended Options for Round Valley Unified School District: Identify Potential Trustees and Define Issues, Budget Control, and Any Decision-making Authorities that Are Impeding Student Academic Progress; or Appoint an Independent Trustee with Full Authority for Round Valley Unified School District.

ACTION: Member Bloom moved to approve that the SBE authorize the SBE President and liaison to work with the staff of the SBE and the CDE to:

- Identify any potential candidates to be appointed as an independent state trustee for the Round Valley Unified School District (RVUSD).
- Assign an independent full trustee in RVUSD with stay and rescind powers over decisions of RVUSD, the local governing board, and any acting district superintendent for a period of not less than three years with minimally an annual review of progress.
- Adopt a scope of authority and tenure for duration of assignment to govern RVUSD trusteeship through a memorandum of understanding.
- Adopt staff recommendation and designate Board member Jim Aschwanden as the Board's liaison for selecting the trustee.

Member Williams seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Austin was absent for the vote.

Item 4: Parent Empowerment — Approve Commencement of 15-day Comment Period for Proposed Additions to the *California Code of Regulations*, Title 5, Sections 4800–4808.

ACTION: Member Arkatov moved to amend the SBE's staff recommendation from Section 4802.2(c) end of line 15 on page 11 of the item addendum to include:

> If a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g), then the LEA must immediately solicit charter proposals from charter school operators, charter management organizations and education management organizations and, prior to selecting a charter school operator, charter management organization or education management organization, must conduct the rigorous review process required by *Education Code* section 53300 and section 4804, which includes compliance with the requirements and timelines set forth in *Education Code* section 47605, subdivisions (b) through (h), and (l) with the exception that the timelines set forth in *Education Code* section 47605(b) do not begin until a charter proposal is received. If, after the rigorous review specified in this subdivision, the LEA finds that the charter included with the parent empowerment petition substantially fails to meet the requirements of *Education Code* section 47605 and the petitioners cannot cure this failure through a revision of the charter, or the petition does not request a specific charter school operator, charter management organization or education management organization and the LEA is unable to identify a charter school operator, charter management organization or education management organization which meets the requirements of *Education Code* section 47605, the LEA shall find that it is unable to implement the option requested by parents and shall implement one of the other options specified in *Education Code* section 53300 in the subsequent school year.

Member Lopez seconded the motion. The board voted, by show of hands, 7-1 to approve the motion. Member Austin recused himself from the vote. Member Williams was absent for the vote.

Yes votes: Members Arkatov, Bloom, Chan, Cushman, Fang, Lopez, and Mitchell
No vote: Member Aschwanden

ACTION: Member Chan moved to approve SBE's amended staff recommendation that the SBE take the following action to:

- Approve the proposed changes to the proposed regulations based on edits made in response to the public comments;

- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;

- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;

- If any relevant comments to the proposed changes are received during the 15-day public comment period the CDE is directed to place the proposed regulations on the SBE's January 2011 Agenda for action; and

- Authorize CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Bloom seconded the motion. The board voted, by show of hands, 7-1 to approve the motion. Member Austin recused himself from the discussion and vote. Member Williams was absent for the vote.

Yes votes: Members Arkatov, Bloom, Chan, Cushman, Fang, Lopez, and Mitchell
No vote: Member Aschwanden

Item 5: Adopt Policy Guidance for Considering Streamlined Waiver Requests from Local Educational Agencies that Implement Countywide, Districtwide, or Pilot at Selected School Sites, and Use Teacher and Administrator Evaluation Systems to Inform all Employment Decisions.

ACTION: Member Austin moved to amend staff recommendation to include a bullet point to read as follows:

- Evaluation that engages parents and students for example questionnaires, surveys, and focus groups;

Member Arkatov seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

ACTION: Member Chan moved to approve the amended SBE staff recommendation that the SBE adopt the attached proposed SBE Policy for considering streamlined waiver requests from local educational agencies that implement countywide, districtwide, or pilot at selected school sites, and use teacher and administrator evaluation systems to inform all employment decisions. Member Cushman seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

Item 6: Task Force on Nonclassroom-based Education Programs: Approval of Establishment, Membership, Charge, and Timeline.

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to approve the establishment, membership, charge, and timeline of the Task Force on Nonclassroom-based Education Programs (Task Force) as outlined in this item provided funding is made available for this purpose. Member Williams seconded the motion.

Member Arkatov proposed a friendly amendment as specified below:

The Task Force shall include, but not be limited to the following members: the SSPI or designee, an SBE member or designee, a designee of the Senate Pro Tem, a designee of the Speaker of the Assembly, the Governor or designee, the Director of Finance or designee, a member of the Advisory Commission on Charter Schools or designee, a designee of the California Teachers Association and the California Federation of Teachers, and a representative of the California Postsecondary Education Commission, a member representing career technical education, a member representing students, and a member representing parents.

The task force is established by the State Board of Education to study and review the key elements of high quality non-classroom-based education programs as provided by Senate Bill 740 and other relevant legislation.

It shall address seat time, curriculum, delivery system, teacher and administrative issues, fiscal costs, fiscal savings, funding, and any pertinent demographic, peer-to-peer, or physical issues.

It is the expectation the state will codify any necessary changes concurrently with the Governor, Legislature, and the CDE, and that California will become a global leader in non-classroom, performance-based mastery of K-12 subject matter and instruction with the highest possible levels of access, affordability, and accountability.

Member Aschwanden and Member Williams accepted Member Arkatov's amendments. The board voted, by show of hands, 9-0 to approve the motion. Member Austin was absent for the vote.

WAIVER REQUEST MATTERS

Item W-2 General
Subject: Request by Yolo County Office of Education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Tina Turner and Elissa Driver to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 4-10-2010 and 5-10-2010

This item was pulled from the agenda.

PROPOSED CONSENT CALENDAR

ACTION: Member Aschwanden moved to approve the following items 7, 8, and W-1 on the proposed consent calendar. Member Bloom seconded the motion. The board voted by show of hands, 9-0 to approve the motion. Member Austin was absent for the vote.

Item W-1 General
Subject: Request by Kings County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Britney Bettencourt to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 2-10-2010

Recommended approval of the renewal waiver for Britney Bettencourt, with the following conditions:

1. The Kings County Office of Education (COE) must provide Ms. Bettencourt with monthly one-on-one mentorship by a certified interpreter during the 2010–11 school year.

2. By June 30, 2011, the Kings COE must provide CDE with assessment scores for Ms. Bettencourt. The scores must be from one of the assessments named in the *California Code of Regulations,* Title 5, and Section 3051.16(b) (3).

3. If Ms. Bettencourt does not achieve the regulatory qualification standard, she must demonstrate growth on the assessment, and demonstrate evidence of participation in required professional growth opportunities to apply for a waiver for the consecutive school year.

Item 7: Elementary and Secondary Education Act: Approve Local Educational Agency Plans, Title I, Section 1112.

Item 8: Appoint Richard Zeiger and Eugene Flores to positions in accordance with Article IX, Section 2.1, of the Constitution of the State of California.

END OF CONSENT CALENDAR

****ADJOURNMENT OF MEETING ****

State Board of Education
State Board of Education Board Room
January 12-13, 2011
Draft Minutes

Please note that the complete proceedings of the May 2011State Board of Education meeting, including close captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Michael W. Kirst, President
Ruth Bloom, Vice President
James Aschwanden
Yvonne Chan
Carl Cohn
Gregory Jones
James L. Ramos
Patricia Rucker
Ilene Straus
Johnathan Williams
Connor Cushman, Student Member

Members Absent:
None

Secretary and Executive Officer
Tom Torlakson, State Superintendent of Public Instruction

Principal Staff
Nicolas Schweizer, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Regina Wilson, Program Communications Analyst, SBE
Richard Zeiger, Chief Deputy Superintendent, California Department of Education (CDE)
Amy Holloway, General Counsel, CDE
Jill Rice, General Counsel, CDE
Mary Prather, Education Administrator I, CDE
Jaime Hastings, Associate Government Analyst, CDE

Item 1: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and

direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; board liaison reports, and other matters of interest.

Election of Officers

Vice President Bloom opened Item 1 by turning the gavel over to Superintendent Torlakson to conduct the election of officers for the 2011 year. Per Article IV of the state board's bylaws, the Superintendent called for nominations for the office of president. Member Cohn nominated Michael Kirst for office of the president. Member Chan seconded the motion. The board voted, by roll call, 10-0 and 1 abstention to approve the nomination. Member Kirst abstained from the vote.

Superintendent Torlakson called for nominations for the office of vice president. No nominations were given. Seeing no nomination for vice president the, board agreed to hold over nominations for vice president to the next scheduled board meeting.

Item 2: 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.

No action was taken on this item.

Item 3: Elementary and Secondary Education Act: Corrective Action Plan Presented by the State Trustee for the Alisal Union Elementary School District for State Board of Education Approval.

This item was withdrawn.

Item 4: Elementary and Secondary Education Act: Corrective Action Plan Submitted by the State Trustee for the Greenfield Union Elementary School District for State Board of Education Approval.

This item was withdrawn.

Item 5: Elementary and Secondary Education Act: Approval of the Appointment of Trustee with Stay and Rescind Authority for the Round Valley Unified School District and Draft Memorandum of Understanding.

ACTION: Member Chan moved to approve SBE's staff recommendation to:

- Appoint Christina Thomas as an independent, full trustee in the Round Valley Unified School District (RVUSD) with stay and rescind authority over the governing board and any superintendent, pending satisfactory completion of an accepted MOU; and
- Delegate authority to the SBE President and the SBE liaisons Jim Aschwanden and James Ramos to finalize the MOU with the trustee, including a start date for the trusteeship.

Member Cohn seconded the motion. The board voted, by show of hands, 11-0 to approve the motion.

Item 6: Approval of 2010–11 Consolidated Applications.

ACTION: Member Aschwanden moved CDE's staff recommendation to approve the 2010–11 Consolidated Applications submitted by local educational agencies in Attachment 1. Member Cohn seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Bloom, Chan, Cushman, and Jones were absent for the vote.

Item 7: African American Advisory Committee: Recommendations for Consideration to the State Board of Education Related to Accountability, Special Education, and Teacher Quality and Instruction.

No action was taken on this item.

Item 8: Approve State Performance Plan and Annual Performance Report for Part B of the Individuals with Disabilities Education Act Covering Program Year 2009–10.

ACTION: Member Chan moved to approve the State Performance Plan (SPP), as revised, and the Annual Performance Report (APR) for Part B of the Individuals with Disabilities Education Act (IDEA) for Program Year 2009–10. Member Williams added a friendly amendment to make this action contingent upon the board president report and the SBE and staff liaison to fill in any gaps in the two documents. Member Chan accepted the amendment. Member Cohn seconded the motion. The board voted, by show of hands, 9-0 and 1 abstention. Member Bloom was absent for the vote.

Abstention: Member Jones

Item 9: California High School Exit Examination: Analysis and Consideration of Alternative Means to the California High School Exit Examination.

This item was withdrawn.

Item 10: California High School Exit Examination Alternative Means: Adopt Proposed *California Code of Regulations, Title 5,* Section 1216.1.

This item was withdrawn.

Item 11: Appeal of a Decision of the Orange County Committee on School District Organization to Approve a Petition to Transfer Territory from the Placentia-Yorba Linda Unified School District to the Brea Olinda Unified School District in Orange County.

This item was withdrawn.

Item 12: Request from the Ventura County Board of Education to Transfer the Duties and Powers of the Ventura County Committee on School District Organization to the Ventura County Board of Education.

This item was withdrawn.

Item 13: Elementary and Secondary Education Act: Supplemental Educational Services – Approve Commencement of 15-Day Public Comment Period for Proposed Changes to Proposed *California Code of Regulations, Title 5,* Sections 13075.1 Through 13075.9 (inclusive).

This item was withdrawn.

Item 14: Standardized Testing and Reporting Program: Adoption of California Modified Assessment Performance Level Descriptors for English–Language Arts in Grade Nine, Algebra I, and Life Science in Grade Ten.

This item was withdrawn.

*****PUBLIC HEARING*****

Item 15: Standardized Testing and Reporting Program: The Adoption of California Modified Assessment Proposed Performance Standards Setting for English-Language Arts in Grade Nine, Algebra I, and Life Science in Grade Ten and to Conduct the Regional Public Hearings.

This item was withdrawn.

Item 16: 2011 United States Senate Youth Program Presentation.

No action was taken on this item.

Item 17: Student Advisory Board on Education: Analysis of 2010–11 Policy Recommendations.

This item was withdrawn.

Item 18: Elementary and Secondary Education Act: Proposed Criteria for the Review of 93 Local Educational Agencies in Cohort 1 Program Improvement Corrective Action.

This item was withdrawn.

Item 19: Elementary and Secondary Education Act: Recommendations Related to California's Assignment of Corrective Actions and Associated Technical Assistance for the 2010 Local Educational Agencies in Program Improvement Corrective Action.

This item was withdrawn.

Item 20: Student Achievement Plans for State Board of Education–Authorized Charter Schools: Review and Approve California Department of Education Plan for Oversight of Student Achievement Plans Submitted by Aspire Alexander Twilight College Preparatory Academy, Aspire Titan Academy, Aspire Vanguard College Preparatory Academy, Barack Obama Charter School, Edison Charter Academy, Everest Public High School, High Tech High School - Chula Vista, High Tech Middle School - North County, Micro-Enterprise Charter Academy, Ridgecrest Charter School, The School of Arts and Enterprise, and Western Sierra Collegiate Charter Academy and Take Other Action as Appropriate Based on the Failure of These Schools to Meet Adequate Yearly Progress and Academic Performance Index Growth Targets.

This item was withdrawn.

Item 21: Charter Revocation and Revocation Appeals – Adopt Amendments to *California Code of Regulations, Title 5* sections 11965, 11968.1, 11968.5.1, 11969.1, 11969.2, 11969.3, 11969.4, and 11969.10.

ACTION: Member Chan moved to approve CDE's staff recommendation that the board:

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Williams seconded the motion. The board voted by show of hands, 10-0 to approve the motion. Member Bloom was absent for the vote.

Item 22: Aspire Public Schools Statewide Benefit Charter: Material Revisions and Findings.

This item was withdrawn.

Item 23: Development of Regulations to Revise the Requirements for Statewide Benefit Charters and to Govern the State Board of Education's Advisory Commission on Charter Schools.

This item was withdrawn.

Item 24: Effect of the *Common Core State Standards* on the *Model School Library Standards for California Public Schools, Kindergarten Through Grade Twelve*.

This item was withdrawn.

Item 25: Parent Empowerment: Approve Proposed Changes to the Regulations Made in Response to the 15-day Public Comment Period that Began December 23, 2010, and Ended January 6, 2011, and Approve the Commencement of a Second 15-Day Public Comment Period for Proposed Amendments to *California Code of Regulations, Title 5*, Sections 4800–4808 or, if there are no Relevant Comments to

the Regulations in Response to the 15-day Public Comment Period, Adopt the Proposed *California Code of Regulations, Title 5,* Sections 4800-4808 as Amended.

This item was withdrawn.

Item 26: Elementary and Secondary Education Act: Parental Involvement Update Including, but Not Limited to, Technical Assistance Provided to Local Educational Agencies by the California Department of Education and by the Family Area Network, Including its Purpose, Composition, and Contributions; and Federal Authority for Parental Involvement.

This item was withdrawn.

Item 27: Elementary and Secondary Education Act: School Improvement Grant: Update on the State's Application for the 2010 School Improvement Grant Under Section 1003(g) of the Elementary and Secondary Education Act.

ACTION: Member Chan moved approve CDE's staff recommendation and authorize the SBE President along with the State Superintendent to approve FY 2010 SIG Application to the US Department of Education to :1) make the funds available to eligible schools not served in the 2009 SIG process, 2) use FY 2010 SIG funds to make first-year only awards to LEAs to serve approximately thirty schools, and 3) give priority for funding based on a determination of schools with greatest need as well as geographic distribution of Tier I and Tier II schools throughout the state. Member Cohn seconded the motion. The board voted, by show of hands, 7-3 and 1 abstention to approve the motion.

Yes Votes: Members Ashwanden, Chan, Cohn, Kirst, Ramos, Rucker, and Straus
No Votes: Members Bloom, Jones, and Williams
Abstention: Member Cushman

Item 28: Academic Performance Index: Approve Changes to the Calculation of the 2010 Base Academic Performance Index.

This item was withdrawn.

Item 29: Elementary and Secondary Education Act: Proposed Amendments to the Accountability Workbook Impacting Adequate Yearly Progress Determinations for 2011 Related to Safe Harbor and English Learners.

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to amend California's Consolidated State Application Accountability Workbook for the

2011 year. Member Jones seconded the motion. The board voted, 10-0 to approve the motion. Member Bloom was absent for the vote.

Item 30: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs, Including, but Not Limited to, the Title I and Title III Monitoring Reviews.

This item was withdrawn.

Item 31: Foster Youth Education Program—Approve Commencement of the Rulemaking Process for Amendments to the *California Code of Regulations*, *Title 5*, Section 11997.

This item was withdrawn.

Item 32: Standardized Testing and Reporting Program: Approve Commencement of a 15-Day Public Comment Period for Proposed Changes to the *California Code of Regulations, Title 5,* Sections 850 Through 868.

This item was withdrawn.

Item 33: Elementary and Secondary Education Act: Approve Local Educational Agency Plans, Title I, Section 1112.

ACTION: Member Straus moved to approve 16 specific local educational agency plans listed in Attachment 1. Member Ramos seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item 34: Standardized Testing and Reporting Program: Approval of 2011 School District Apportionment Amounts**.**

ACTION: Member Aschawden moved to approve the following school district apportionment amounts for Standardized Testing and Reporting (STAR) Program testing administered during the 2010–11 school year:

- $0.38 for the completion of demographic information for each student not tested with the California Standards Tests (CSTs); the California Modified

Assessment (CMA); the Standards-based Tests in Spanish (STS); or the California Alternate Performance Assessment (CAPA)

- $2.52 per tested student for the completion of demographic information and administration of the CSTs, the CMA, or a combination thereof

- $2.52 per tested student for the completion of demographic information and administration of the STS to Spanish-speaking English learners (ELs)

- $5.00 per tested student for the completion of demographic information and administration of the CAPA.

Member Rucker seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item 35: Assignment of Numbers for Charter School Petitions.

ACTION: Member Rucker moved to approve CDE's staff recommendation to assign charter numbers to the charter schools identified in the list attached to this item attached. Member Williams seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

NON-CONSENT WAIVER ITEMS

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken. The board took individual action on the following waiver items: WC-1, WC-2, WC-4, WC-5, WC-7, WC-8, WC-9, WC-10, WC-11, WC-12, W-1, W-22, W-23, and W-25.

Item WC-1
Subject: Request by Lucerne Valley Unified School District for Lucerne Valley High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-592-2010
(Recommended for APPROVAL)

Item WC-2
Subject: Request by Silver Valley Unified School District for Silver Valley High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-591-2010
(Recommended for APPROVAL)

ACTION: Member Aschwanden moved to approve CDE's staff recommendation for WC-1 and WC-2 waiver request. Member Rucker seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item WC-3
Subject: Request by 35 local educational agencies to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5 Section 4701 to remove their school(s) from the Open Enrollment List of "low-achieving schools" for the 2010–11, 2011–12 or both school years.
Waiver Numbers: Various
(Recommended for APPROVAL WITH CONDITIONS)

This item was withdrawn.

Item WC-4
Subject: Request by Grossmont Union High School District to waive portions of California *Education Code* Section 51222(a), related to the statutory minimum requirement of 400 minutes of physical education each ten school days for students in grades nine through twelve in order to implement a block schedule at El Cajon Valley High School.
Waiver Number: 59-10-2010
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Rucker moved to approve CDE's staff recommendation to approve the waiver request. Member Cohn seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item WC-5
Subject: Request by Pioneer Union Elementary School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.

Waiver Number: 79-10-2010
(Recommended for APPROVAL)

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to approve the waiver request. Member Cohn seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item WC-6
Subject: Request by Alview-Dairyland Union Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small rural schools, Alview Elementary School and Dairyland Elementary School.
Waiver Number: 9-10-2010
(Recommended for APPROVAL WITH CONDITIONS)

This item was withdrawn.

Item WC-7
Subject: Request by Claremont Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools, Claremont Community Day School and San Antonio Continuation High School.
Waiver Number: 9-11-2010
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Aschwanden moved to approve CDE's staff recommendation with conditions to approve the waiver request. Member Chan seconded the motion. The board voted, by show of hands 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item WC-8
Subject: Request by Claremont Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools, Danbury Elementary School and Sumner Elementary School.
Waiver Number: 10-11-2010
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Aschwanden moved to approve CDE's staff recommendation with conditions to approve the waiver request. Member Chan seconded the motion. The board voted, by show of hands 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item WC-9
Subject: Request by Waugh School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools, Corona Creek Elementary School and Meadow Elementary School.
Waiver Number: 5-11-2010
(Consent due to SBE Streamlined Waiver Policy)
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to approve with conditions the waiver request. Member Chan seconded the motion. The board voted, by show of hands 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item WC-10
Subject: Request by Valley Center-Pauma Unified School District to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance for an extended school year for special education students.
Waiver Number: 55-10-2010
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Chan moved to approve CDE's staff recommendation with conditions. Member Ramos seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members, Bloom, Cushman, and Jones were absent for the vote.

Item WC-11
Subject: Request by Pioneer Union Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Jean Tessman is assigned at Pioneer Middle School.
Waiver Number: 11-10-2010
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Chan moved to approve CDE's staff recommendation with conditions. Member Rucker seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members, Bloom, Cushman, and Jones were absent for the vote.

Item WC-12
Subject: Request by Kings County Office of Education to waive *California Code of Regulations*, Title 5, Section 1225 (b)(2)(A) , the requirement to submit the State Testing Apportionment Information Report to the Assessment Division by December 31 every year (for the CAHSEE).
Waiver Number: 10-10-2010
(Recommended for APPROVAL)

ACTION: Member Chan moved to approve CDE's staff recommendation to approve the waiver request. Member Aschwanden seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members, Bloom, Cushman, and Jones were absent for the vote.

Item W-1
Subject: Request by Winters Joint Unified School District to waive a portion of *California Code of Regulations*, Title 5, Section 1032(d)(5); the 85 percent requirement of test takers in U.S. History to allow Winters Middle School to be given a valid 2010 Growth Academic Performance Index.
Waiver Number: 49-10-2010

ACTION: Member Straus moved to approve the waiver request to allow Winters Middle School be given a valid 2010 Growth Academic Performance Index with the condition that Winters Middle School allow all students for the 2011 schools year to take the core curriculum. Member Cohn seconded the motion. The board voted, by show of hands, 6-3 to approve the motion. Members Bloom and Jones were absent for the vote.

Yes votes: Members Aschwanden, Cohn, Cushman, Kirst, Ramos, and Straus
No votes: Members Chan, Rucker, and Williams

Item W-2
Subject: Request by three districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) relating to class size penalties for grades one through three. For grades one through three, the overall class size average is 30 to one with no class larger than 32.

Waiver Numbers: 12-10-2010, 15-10-2010, and 53-10-2010.
(Recommended for APPROVAL WITH CONDITIONS)

This item was withdrawn.

Item W-3
Subject: Request by 13 districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.
Waiver Numbers: 18-9-2010, 8-10-2010, 16-10-2010, 14-10-2010, 77-10-2010, 22-10-2010, 21-10-2010, 68-10-2010, 46-10-2010, 62-10-2010, 64-10-2010, 13-10-2010, and 17-10-2010.
(Recommended for APPROVAL WITH CONDITIONS)

This item was withdrawn.

Item W-4
Subject: Request by five districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one to three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 63-10-2010, 6-11-2010, 3-10-2010, 23-10-2010, and 18-10-2010.
(Recommended for APPROVAL WITH CONDITIONS)

This item was withdrawn.

Item W-6
Subject: Request by five local educational agencies to waive California *Education Code* Section 48352(a) and *California Code of Regulations* Title 5 Section 4701 to remove their schools from the Open Enrollment List of "low-achieving schools" for the 2010–11, 2011–12 or both school years.
Waiver Numbers: Various

This item was withdrawn.

Item W-9
Subject: Request by Los Angeles Unified to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality

Education Investment Act in order to allow funds from San Fernando Middle School and Lincoln High School to follow identified students who will be transferring to San Fernando Institute of Applied Learning and Leadership in Entertainment and Media Arts to ensure that they will not lose the benefits of the Quality Education Investment Act.
Waiver Number: 71-10-2010
(Recommended for DENIAL)

This item was withdrawn.

Item W-10
Subject: Request by Los Angeles Unified School District to waive California *Education Code* Section 52055.750(a)(9) regarding funds expenditure requirements under the Quality Education Investment Act in order to allow funds from Carver Middle School and Los Angeles Academy Middle School to follow identified students who will be transferring to one new school, Central Region Middle School #7 to ensure that they will not lose the benefits of the Quality Education Investment Act.
Waiver Number: 34-10-2010
(Recommended for DENIAL)

This item was withdrawn.

Item W-22
Subject: Request by Shasta County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Krysta Shaw-Stearns and Charlene Starks to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 14-11-2010 and 15-11-2010

ACTION: Member Chan moved to approve CDE's staff recommendation to deny the waiver request. Member Straus seconded the motion. The board voted, by show of hands, 7-0 and 1 abstention to approve the motion. Members, Bloom, Cushman, and Jones were absent for the vote.

Abstention: Member Williams

Item W-23
Subject: Request by various local educational agencies to waive portions of *Education Code* sections 35256 (c) and 35258 the annual deadline to make the

annual School Accountability Report Card available in hard copy and on the internet by February 1. Waiver Number: Various, see attached list. More will be added in a last minute memorandum.

ACTION: Member Rucker moved to approve CDE's staff recommendation to approve the waivers to extend the February 1 deadline to April 1 for the 2011 year only. Member Chan seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Member Bloom, Cushman, and Jones were absent for the vote.

Item W-25
Subject: Request by the Yolo County Office of Education to waive *California Code of Regulations,* Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Tina Turner and Elissa Driver to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 4-10-2010, 5-10-2010

ACTION: Member Cohn moved to approve the waiver request with conditions and to remove the job description from the district's web site. Member Williams seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

WAIVER REQUEST CONSENT MATTERS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in the California *EC* or in the *CCR*, Title 5.

The following agenda items were proposed for approval on the waiver consent calendar: W-5, W-7, W-8, W-11 through W-21, and W-24.

ACTION: Member Aschwanden moved to approve the waiver consent items: W-5, W-7, W-8, W-11 through W-21, and W-24. Member Cohn seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Bloom, Cushman, and Jones were absent for the vote.

Item W-5 General
Subject: Request by Surprise Valley Joint Unified School District for a waiver of California *Education Code* Section 48916.1(d) and portions of Section 48660 to permit a community day school to serve students in grades five through six with students in grades seven through twelve.

Waiver Number: 20-10-2010

Item W-7 General
Subject: Request by Yreka Union Elementary School District to waive a portion of California *Education Code* Section 35330(d) to authorize expenditure of school district funds for students to travel to Oregon to attend curricular and extra curricular trips/events and competitions.
Waiver Number: 19-11-2010

Item W-8 General
Subject: Request by Yuba City Unified School District to waive portions of California *Education Code* Section 60800(a), relating to Physical Fitness Testing, specifically the testing window of February 1 through May 31.
Waiver Number: 19-9-2010

Item W-11 General
Subject: Request by Jefferson School District to waive portions of California *Education Code* sections 17464(b), 17473, and 17474, specific provisions for sale and lease of surplus property. Approval of the waiver would allow the district to sell a three acre parcel of surplus property that was Bear Valley School to the National Park Service, or an agent thereof, for use by the Pinnacles National Monument without offering the property to the Director of General Services, the Regents of the University of California, the Trustees of the California State University, or other state agencies.
Waiver Number: 52-10-2010

Item W-12 General
Subject: Request by Alvord Unified School District to waive California *Education Code* Section 15270 to allow the district to exceed its bond indebtedness limit of 2.5 percent of the taxable assessed value of property. (Requesting 2.6 percent)
Waiver Number: 67-10-2010

Item W-13 General
Subject: Request by Pittsburg Unified Unified School District to waive California *Education Code* sections 15106 and 15270 to allow the district to exceed its bond indebtedness limit of 2.5 percent of the taxable assessed value of property. (Requesting 3.58 percent).
Waiver Number: 48-10-2010

Item W-14 General
Subject: Request by Stockton Unified School District to waive California *Education Code* Section 15270 (a) to allow the district to exceed its bond indebtedness limit of 2.5 percent of the taxable assessed value of property. (Requesting 3.28 percent).
Waiver Number: 69-10-2010

Item W-15 General
Subject: Request by Lemoore Union Elementary School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.
Waiver Number: 33-11-2010

Item W-16 Specific
Subject: Request by Central Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small continuation high school, Pershing Continuation High School.
Waiver Number: 19-10-2010

Item W-17 Specific
Subject: Request by Elkins Elementary School District under the authority of the California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Elkins Elementary School.
Waiver Number: 14-9-2010

Item W-18 Specific
Subject: Request by Lancaster Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small alternative school Crossroad School.
Waiver Number: 11-11-2010

Item W-19 Specific
Subject: Request by Hanford Joint Union High School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools, Earl F. Johnson High School and Hanford Night Continuation School.
Waiver Number: 4-11-2010

Item W-20 Specific
Subject: Request by Bridgeville Elementary School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small elementary school Bridgeville Elementary School.
Waiver Number: 1-10-2010

Item W-21 General

Subject: Request by Shasta County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Jon Anderson, Diana Davis, Barbara Wolf, Sarah Wood, Aleah Faires, and Christine Coburn to continue to provide services to students until June 30, 2011 under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 12-11-2010, 13-11-2010, 16-11-2010, 17-11-2010, 7-11-2010, and 8-11-2010

Item W-24 Federal
Subject: Request by Simi Valley Unified School District to waive three types of requirements pertaining to Title I, Part A of the Elementary and Secondary Education Act relating to the American Recovery and Reinvestment Act allocations for the 2009–10 fiscal year only.
Waiver Number: Fed-593-2010

END OF PROPOSED WAIVER CONSENT CALENDAR

*****ADJOURNMENT OF MEETING*****

State Board of Education
State Board of Education Board Room
February 9-10, 2011
Draft Minutes

Please note that the complete proceedings of the May 2011State Board of Education meeting, including close captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Michael W. Kirst, President
Trish Williams, Vice President
James Aschwanden
Yvonne Chan
Carl Cohn
Gregory Jones
Aidia Molina
James C. Ramos
Patricia A. Rucker
Ilene W. Straus
Connor Cushman, Student Member

Members Absent:
None

Secretary and Executive Officer
Tom Torlakson, State Superintendent of Public Instruction

Principal Staff
Nicolas Schweizer, Executive Director, State Board of Education (SBE)
Patricia de Cos, Deputy Executive Director, SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Regina Wilson, Program Communications Analyst, SBE
Richard Zeiger, Chief Deputy Superintendent, California Department of Education (CDE)
Amy Holloway, General Counsel, CDE
Mary Prather, Education Administrator I, CDE
Jaime Hastings, Associate Governmental Program Analyst, CDE

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CLOSED SESSION

Amy Holloway, CDE General Counsel reported out of Closed Session that the board granted counsel the authority to pay the first six months of legal fees in the matter of *Emma C. et al. v. Delaine Eastin et. al.*

Item 1: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; board liaison reports, and other matters of interest.

Superintendent Torlakson presided over nominations for the office of the vice president. Member Molina nominated Trish Williams for the office of vice president. Member Cohn seconded the motion. The board voted, by show of hands, 7-0 with 3 abstentions to approve the motion. Member Cushman was absent for the vote.

Yes votes: Members Ashwanden, Cohn, Kirst, Molina, Ramos, Rucker, Straus, and Williams

Abstentions: Members Chan, Jones, and Williams

Item 2: 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.

No action was taken on this item.

Item 3: Parent Empowerment: Overview and Board Discussion of Regulatory Action.

No action was taken on this item.

Item 4: Statewide Benefit Charter Schools: Development of Regulations to Revise the Requirements for Statewide Benefit Charters and Consideration of Material Revisions to the Aspire Public Schools Statewide Benefit Charter.

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ACTION: Member Aschwanden moved to approve CDE's staff recommendation to amend existing regulations to revise the requirements for statewide benefit charters as set forth in Section 11967.6 of the *California Code of Regulations*, Title 5 (5 *CCR*). Member Straus seconded the motion. The board voted, by show of hands, 11-0 to approve the motion.

Item 5: Elementary and Secondary Education Act: Supplemental Educational Services – Approve Commencement of 15-Day Public Comment Period for Proposed Changes to Proposed *California Code of Regulations, Title 5,* Sections 13075.1 through 13075.9 (inclusive).

ACTION: Member Chan moved to approve CDE's staff recommendation to take the following actions:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed regulations with changes are deemed adopted, and CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the 15-day public comment period the CDE is directed to place the proposed regulations on the SBE's March 2011 agenda for action; and
- Authorize CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Cohn seconded the motion. Member Rucker suggested a friendly amendment that the proposed regulations are not automatically deemed adopted, but that the CDE 1) notify the public of the results from the15-day public comment period 2) report out at the March SBE meeting any public comments received and any comments accepted. Members Chan and Cohn accepted the amendment. The board voted, by show of hands, 11-0 to approve the motion.

Item 6: Assessment and Accountability: Background Information in Preparation for State Board of Education Action on the Academic Performance Index and the California Modified Assessment.

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No action was taken on this item.

Item 7: Academic Performance Index: Approve Changes to the Calculation of the 2010 Base Academic Performance Index.

ACTION: Member Straus moved to approve the following changes to the calculation of the 2010 Base Academic Performance Index (API):

- Include results from the California Modified Assessment (CMA) for English-language arts (ELA) in grade nine, Algebra I in grades seven to eleven, and Science in grade ten.

- Adjust the 2010 Base API to account for the introduction of the CMA in ELA in grades ten and eleven, and the addition of CMA geometry in grades eight to eleven, in 2011.

Member Ramos seconded the motion. The board voted, by show of hands, 11-0 to approve the motion.

Item 8: Standardized Testing and Reporting Program: Approve Commencement of a Second 15-Day Public Comment Period for Proposed Changes to the *California Code of Regulations, Title 5,* Sections 850 through 868.

ACTION: Member Chan moved to approve CDE's staff recommendation to take the following actions:

- Approve the proposed changes to the proposed regulations;

- Direct that the proposed changes be circulated for a second 15-day public comment period in accordance with the Administrative Procedure Act;

- If no substantive comments to the proposed changes are received during the second 15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and resubmit it to the Office of Administrative Law (OAL) for approval;

- If any substantive comments to the proposed changes are received during the second 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's March 2011 agenda for action; and

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- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Jones seconded the motion. The board voted, by show of hands, 11-0 to approve the motion.

Item 9: California High School Exit Examination Alternative Means: Adopt Proposed *California Code of Regulations, Title 5,* Section 1216.1.

ACTION: Member Aschwanden moved to approve the CDE's staff recommendation to take the following actions:

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Rucker seconded the motion. The board voted, by show of hands, 11-0 to approve the motion.

Item 10: Appeal of a Decision of the Orange County Committee on School District Organization to Approve a Petition to Transfer Territory from the Placentia-Yorba Linda Unified School District to the Brea Olinda Unified School District in Orange County.

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to affirm the action of the Orange County Committee on School District Organization by adopting the proposed resolution in Attachment 2, thereby denying the appeal. Member Ramos seconded the motion. The board voted, by show of hands, 8-3 to approve the motion.

Yes votes: Members Aschwanden, Chan, Cushman, Jones, Ramos, Rucker, and Williams

No votes: Members Cohn, Molina, and Straus

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Item 11: Foster Youth Education Program: Approve Commencement of the Rulemaking Process for Amendments to the *California Code of Regulations*, *Title 5*, Section 11997.

ACTION: Member Chan moved to approve CDE's staff recommendation to take the following actions:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the CDE to commence the rulemaking process.

Member Rucker seconded the motion. The board voted, by show of hands, 11-0 to approve the motion.

WAIVER REQUEST CONSENT MATTERS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in the California EC or in the CCR, Title 5.

The following agenda items were proposed for approval on the waiver consent calendar: WC-1, WC-2, W-4, and W-5.

ACTION: Member Chan moved to approve the following waiver consent calendar items: WC-1, WC-2, W-4, and W-5. Member Aschwanden seconded the motion. The board voted, by a show of hands, 11-0 to approve the motion.

Item WC-1 General
Subject: Request by Los Angeles Unified School District for Full-Circle Learning Academy to waive *California Code of Regulations, Title 5,* Section 11960(a), to allow the charter school attendance to be calculated as if it were a regular multi-track school (2 tracks; 175 days). Retroactive for the 2009–10 fiscal year only.
Waiver Number: 5-8-2010
(Recommended for APPROVAL WITH CONDITIONS)

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Item WC-2 General
Subject: Request by fifteen local educational agencies to waive portions of California *Education Code* sections 35256(c) and 35258 regarding the annual deadline to make the annual School Accountability Report Card available in hard copy and on the internet by February 1.
Waiver Numbers: Various waivers - see attached list. More will be added in a last minute memorandum.
(Recommended for ARROVAL)

Item W-4 General
Subject: Request by Oxnard School District to waive portions of California *Education Code* Section 15282, regarding term limits for members of a Citizens' Oversight Committee for all construction bonds in the District.
Waiver Number: 32-11-2010.
(Recommended for APPROVAL WITH CONDITIONS)

Item W-5 General
Subject: Request by twenty-four local education agencies to waive portions of California *Education Code* sections 35256 (c) and 35258 regarding the annual deadline to make the annual School Accountability Report Card available in hard copy and on the internet by February 1.
Waiver Number: Various, see attached list.
(Recommended for APPROVAL WITH CONDITIONS)

END OF WAIVER CONSENT

NON-CONSENT WAIVER ITEMS

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken. The board took individual action on the following waiver items: W-1, W-2, and W-3.

W-1 Item
Subject: Request by three districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) relating to class size penalties for grades one through three. For grades one through three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 12-10-2010, 15-10-2010, and 53-10-2010
Recommended for APPROVAL WITH CONDITIONS

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ACTION: Member Straus moved to approve CDE's staff recommendation with conditions. Member Molina seconded the motion. The board voted, by show of hands, 10-0 to approve the motion. Member Rucker recused herself from the item.

Item W-2 General
Subject: Request by 13 districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.
Waiver Numbers: 18-9-2010, 8-10-2010, 16-10-2010, 14-10-2010, 77-10-2010, 22-10-2010, 21-10-2010, 68-10-2010, 46-10-2010, 62-10-2010, 64-10-2010, 13-10-2010, and 17-10-2010
Recommended for APPROVAL WITH CONDITIONS

ACTION: Member Cohn moved to approve CDE's staff recommendation. Member Cushman seconded the motion. The board voted, by show of hands, 10-0 to approve the motion. Member Rucker recused herself from the item.

Item W-3 Specific
Subject: Request by five districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one to three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 63-10-2010, 6-11-2010, 3-10-2010, 23-10-2010, and 18-10-2010
Recommended for APPROVAL WITH CONDITIONS

ACTION: Member Straus moved to approve CDE's staff recommendation with conditions. Member Cohen seconded the motion. The board voted, by show of hands, 10-0 to approve the motion. Member Rucker recused herself from the item.

****Adjournment of Meeting ****

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State Board of Education
California Department of Education Board Room
March 9-11, 2011
Draft Minutes

Please note that the complete proceedings of the May 2011State Board of Education meeting, including close captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Michael W. Kirst, President
Trish Williams, Vice President
James Aschwanden
Yvonne Chan
Carl Cohn
Aida Molina
James C. Ramos
Patricia A. Rucker
Ilene W. Straus
Connor Cushman, Student Member

Members Absent:
None

Secretary and Executive Officer
Tom Torlakson, State Superintendent of Public Instruction

Principal Staff
Patricia de Cos, Interim Executive Director, SBE
Jennifer Bunshoft, Deputy Attorney General and Acting Counsel for the SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Regina Wilson, Program Communications Analyst, SBE
Richard Zeiger, Chief Deputy Superintendent, California Department of Education (CDE)
Amy Holloway, General Counsel, CDE
Mary Prather, Education Administrator I, CDE

Item 1: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation;

bylaw review and revision; Board policy; approval of minutes; board liaison reports, and other matters of interest.

No action was taken on this item.

Item 2: Comprehensive Assessment System Grant: Overview and Presentations by the Partnership for the Assessment of the Readiness for College and Careers Consortium and the Smarter Balanced Assessment Consortium.

No action was taken on this item.

Item 3: 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.

No action was taken on this item.

Item 4: Parent Empowerment — Readoption of the Finding of Emergency and Proposed Emergency Regulations for Additions to the *California Code of Regulations*, Title 5, Sections 4800 through 4807.

ACTION: Member Aschwanden moved to:

- Approve the revised Finding of Emergency;
- Readopt the proposed Emergency Regulations; and
- Direct the California Department of Education to submit the Emergency Regulations to the Office of Administrative Law (OAL) for approval.

Member Williams added a friendly amendment that the board would waive its right to respond to any future public comment. Member Aschwanden accepted the friendly amendment. Member Ramos seconded the motion. The board voted by show of hands, 9-1 to approve the motion.

Yes votes: Members Aschwanden, Chan, Cohn, Cushman, Kirst, Molina, Ramos, Straus, and Williams

No vote: Member Rucker

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Item 5: Parent Empowerment: Update to the State Board of Education on the Process and Progress of the Permanent Parent Empowerment Regulations.

No action was taken on this item.

Item 6: Request by Compton Unified School District to be a Single District Special Education Local Plan Area.

This item was withdrawn by the district.

Item 7: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs.

No action was taken on this item.

Item 8: California High School Exit Examination: Analysis and Consideration of Alternative Means to the California High School Exit Examination.

ACTION: Member Chan moved to approve the immediate commencement of a pilot study for alternative means to eligible students with disabilities. Member Kirst seconded the motion. Member Aschwanden offered the following friendly amendment to the original motion, which was accepted by Member Chan and President Kirst:

The SBE approve the immediate commencement of the pilot study for alternative means to the CAHSEE for eligible students with disabilities using the following guidelines:

- The option of using a scale score of 300 for the California Standards Test in English language arts and a scale score of 269 for Algebra I, as an alternative scale score for passage of the English language arts and mathematics portions of the California High School Exit Examination;

- The option of using a scale score for the California Modified Assessment in English language arts, grade ten, and a scale score for the CMA in Algebra I, as an alternative scale score for passage of the English language arts and mathematics portions of the California High School Exit Examination and that equivalency scale scores be established for the California Modified Assessment as soon as possible following the approval of performance levels for these examinations in alignment with the U.S. Department of Education and completion of the alignment study to meet U. S. Department of Education needs;

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- A field-based pilot study for Tier II be conducted utilizing the two assigned board liaisons; and

- That the remaining funds (approximately $863,000) allocated by AB 2040 for the work of the Tier II pilot study is appropriate.

The board voted, by show of hands, 10-0 to approve the amended motion.

Item 9: Standardized Testing and Reporting Program: Adoption of California Modified Assessment Performance Level Descriptors for English-Language Arts in Grade Nine, Algebra I, and Life Science in Grade Ten.

ACTION: Member Aschwanden moved to adopt the proposed performance level descriptors for the California Modified Assessment for English–language arts in grade nine, Algebra I, and Life Science in grade ten for submission to the U.S. Department of Education for assessment peer review. Member Cohn seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

*****PUBLIC HEARING*****

Item 10: Standardized Testing and Reporting Program: The Adoption of California Modified Assessment Proposed Performance Standards Setting for English-Language Arts in Grade Nine, Algebra I, and Life Science in Grade Ten and to Conduct the Regional Public Hearings.

ACTION: Member Rucker moved to adopt the proposed performance standards (levels) for the California Modified Assessment for English–language arts in grade nine, Algebra I, and Life Science in grade ten with the condition that the board reserves the right to reexamine the performance standards for all performance standards set for the California Modified Assessment examinations adopted by the SBE to date, based on the results of the alignment and validity studies pursuant to the federal Peer Review process. Member Aschwanden seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

*****END OF PUBLIC HEARING*****

CLOSED SESSION

Jennifer Bunshoft, Deputy Attorney General and Acting Counsel for the SBE, reported that during closed session counsel for the Board updated the Board on the status of the lawsuit *California School Boards Association, et al. v. California State*

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Board of Education and Aspire Public Schools, Inc., Alameda Superior Court, Case No. 07353566.

*****PUBLIC HEARING*****

Item 11: The School of Arts and Enterprise: Consideration of Petition to Renew Charter Currently Authorized by the State Board of Education.

ACTION: Member Aschwanden moved to renew the School of Arts and Enterprise charter petition for five years with the understanding that instead of this item coming back before the board, the SBE liaisons will work through the issues to finalize the petition. Member Cohn seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

*****END OF PUBLIC HEARING*****

Item 12: Consideration of Requests for Determination of Funding Rates as Required for Nonclassroom-based Charter Schools.

ACTION: Member Rucker moved to adopt CDE's staff recommendation to approve the funding rates for nonclassroom-based instruction in charter schools as listed in Attachment 1 except for the Charter School of San Diego and Westwood Charter School. Member Molina seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Cushman was absent for the vote.

ACTION: Member Straus moved to approve Westwood Charter School and the Charter School of San Diego funding for two years with the condition that they improve their API ranking to meet the minimum threshold of six to give them the required five years of funding determination. Member Rucker seconded the motion. The board voted, by show of hands 9-0 to approve the motion. Member Cushman was absent for the vote.

Item 13: Charter Renewal: Approval of Commencement of 15-Day Public Comment Period for Proposed Changes to the *California Code of Regulations,* Title 5, Sections 11966.4, 11966.5, 11966.6, and 11967.5.1.

ACTION: Member Aschwanden moved to approve CDE's staff recommendation to take the following actions:

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- Approve the proposed changes to the proposed regulations;

- Direct that the proposed changes be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;

- If no relevant comments to the proposed changes are received during the 15-day public comment period, the proposed amendments with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval and provide an update of the status at the SBE's next regularly scheduled board meeting;

- If any relevant comments to the proposed changes are received during the 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's May 2011 agenda for action; and

- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Rucker seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Cushman was absent for the vote.

Item 14: Elementary and Secondary Education Act: Recommendations Related to California's Assignment of Corrective Actions and Associated Technical Assistance for the 2010 Local Educational Agencies in Program Improvement Corrective Action.

ACTION: Member Molina moved to assign Corrective Action 6 to the identified districts that CDE provided to the board. Member Cohn seconded the motion. The board voted by show of hands, 8-0 to approve the motion.

ACTION: Member Straus moved to approve the assignment of: 1) moderate technical assistance to each of the 54 school districts in Cohort 4 that have at least one school in Program Improvement, and 2) light technical assistance to the three school districts with no schools in PI and the five county offices of education. Member Rucker seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Cushman and Chan were absent for the vote.

Item 15: Elementary and Secondary Education Act: Proposed Criteria and Methodology for the Review of 92 Local Educational Agencies in Cohort 1 Program Improvement Corrective Action.

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ACTION: President Kirst moved to request that the CDE staff come back to the board with alternatives concerning the statistical procedure for judging an LEA's progress. Member Cohn seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Member Molina recused herself from participating in the item and vote. Members Chan and Cushman were absent for the vote.

Item 16: Inclusion of Middle School Dropouts in the Academic Performance Index – Approval of Commencement of the Rulemaking Process for Amendments to the *California Code of Regulations*, Title 5, Section 1039.1.

ACTION: Member Aschwanden moved to correct the date of Public Notice in Attachment 1 to May 9, 2011 at 1:00 p.m. and to take the following actions:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the CDE to commence the rulemaking process.

Member Ramos seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Chan and Cushman were absent for the vote.

Item 17: California State Plan 1999–2011 for the Workforce Investment Act, Title II: Adult Education and Family Literacy Act: Extension and Update.

ACTION: Member Ramos moved to approve CDE's staff recommendation to extend the California State Plan 1999–2011 for the Workforce Investment Act, Title II: Adult Education and Family Literacy Act for one additional year and approve the proposed performance goals for 2011–12. Member Aschwanden seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Chan and Cushman were absent for the vote.

Item 18: State Board of Education Delegation of Authority for the Approval of the Striving Readers Comprehensive Literacy Plan for Children From Birth Through Grade Twelve as Developed by the State Literacy Team.

ACTION: Member Williams moved to delegate authority to the SBE President to submit the State Literacy Plan by April 1, 2011, as developed by the Striving Readers Comprehensive Literacy Plan State Literacy Team to the U.S. Department of

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Education for review and consideration. Member Straus seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Chan and Cushman were absent for the vote.

Item 19: Approval of 2010-2011 Consolidated Applications.

ACTION: Member Aschwanden moved to approve the 2010–11 Consolidated Applications submitted by local educational agencies listed in Attachment 1. Member Cohn seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Chan, Cushman, and Straus were absent for the vote.

Item 20: Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.

ACTION: Member Ramos moved to approve 17 specific Local Educational Agency Plans listed in Attachment 1. Member Rucker seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Chan, Cushman, and Straus were absent for the vote.

Item 21: The Administrator Training Program, formerly Assembly Bill 430 (Chapter 364, Statutes of 2005): Approval of Applications for Funding from Local Educational Agencies.

ACTION: Member Aschwanden moved to approve funding for local educational agencies that have submitted applications under the Administrator Training Program. Member Williams seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Molina recused herself from participating in the item and vote. Members Chan, Cushman, and Straus were absent for the vote.

Item 22: The Administrator Training Program, Assembly Bill 430 (Chapter 364, Statutes of 2005): Approval of Training Providers and Training Curricula.

ACTION: Member Cohn moved to approve the final 2012–13 training providers and curricula listed in Attachment 1 for the Administrator Training Program. Member Ramos seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Chan, Cushman, and Straus were absent for the vote.

WAIVER REQUEST CONSENT AND WAIVERS ON PROPOSED CONSENT

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The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in *the California Education Code EC* or in the *California Code of Regulations*, CCR, Title 5, or they have been identified for proposed consent.

The following agenda items were proposed for approval on the waiver consent calendar or proposed consent: WC-2, WC-4 through WC-7, W-3, W-5 through W-15, and W-18.

ACTION: Member Aschwanden moved to approve the proposed waiver consent calendar or proposed consent: WC-2, WC-4 through WC-7, W-3, W-5 through W-15, and W-18. Member Cohn seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Chan, Cushman, and Straus were absent for the vote.

Item WC-2
Subject: Request by Black Oak Mine Unified School District for Golden Sierra High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270).
Waiver Number: Fed-594-2010
(Recommended for APPROVAL)

Item WC-4
Subject: Request by Wiseburn Elementary School District to waive California *Education Code* sections 15102 and 15268, to allow the district to exceed its bonded indebtedness limit of 1.25 percent of the taxable assessed value of property (requesting 2.20 percent).
Waiver Number: 46-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-5
Subject: Request by Alview-Dairyland Union Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small rural schools, Alview Elementary and Dairyland Elementary.
Waiver Number: 9-10-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-6
Subject: Request by Lassen View Union Elementary School District to waive the State Testing Apportionment Information Report and Certification deadline of December 31 in the *California Code of Regulations*, Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.
Waiver Number: 24-11-2010

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(Recommended for APPROVAL)

Item WC-7
Subject: Request by thirty-eight local educational agencies to waive portions of California *Education Code* sections 35256(c) and 35258 regarding the annual deadline to make the annual School Accountability Report Card available in hard copy and on the Internet by February 1.
Waiver Numbers: Various waivers - see attached list.
(Recommended for APPROVAL WITH CONDITIONS)

Item W-3
Subject: Request by Konocti Unified School District for a waiver of California *Education Code* Section 48916.1(d) and portions of Section 48660 to permit a community day school to serve students in grades two through six with students in grades seven through nine, and Section 48661(a) to permit the collocation of a community day school on the same site as Highlands High School, a continuation high school.
Waiver Number: 31-11-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-5
Subject: Request by El Monte Union High School District to waive California *Education Code* sections 15102 and 15268 to allow the district to exceed its bonded indebtedness limit of 1.25 percent of the taxable assessed value of property (requesting 2.0 percent).
Waiver Number: 174-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-6
Subject: Request by West Contra Costa Unified School District to waive California *Education Code* sections 15106 and 15270(a) to allow the district to exceed its bond indebtedness limit of 2.5 percent of the taxable assessed value of property (requesting 5.0 percent).
Waiver Number: 200-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-7
Subject: Request by Eureka City Schools to waive portions of California *Education Code* Section 15282, regarding term limits for members of a Citizens' Oversight Committee for all construction bonds in the District.
Waiver Number: 173-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-8

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Subject: Request by Reef-Sunset Unified School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.
Waiver Number: 48-12-2010
(Recommended for APPROVAL)

Item W-9
Subject: Request by Los Alamos Elementary School District to waive portions of California *Education Code* sections 35780 and 35782, which require lapsation of a district with an average daily attendance of less than six.
Waiver Number: 158-12-2010
(Recommended for APPROVAL)

Item W-10
Subject: Request by Southern Trinity Joint Unified School District under the authority of California *Education Code* Section 52863 for a waiver of California *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Hoaglin-Zenia Elementary.
Waiver Number: 171-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-11
Subject: Request by Manteca Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 180-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-12
Subject: Request by Solano County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Nicole Levine and Elizabeth Castro, to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 10-12-2010 and 11-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-13
Subject: Request by Solano County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Madelynne (Lynne) McGowan, to continue

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to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 9-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-14
Subject: Request by Solano County Office of Education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Britney Strenn to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Number: 8-12-2010
Recommended for APPROVAL WITH CONDITIONS

Item W-15
Subject: Request by Stanislaus County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Thomas (Tommy) Duarte to continue to provide services to students under a remediation plan to complete those minimum qualifications.
Waiver Number: 35-11-2010
Recommended for APPROVAL WITH CONDITIONS

Item W-18
Subject: Request by eighty-eight local educational agencies to waive portions of California *Education Code* Sections 35256(c) and 35258 regarding the annual deadline to make the annual School Accountability Report Card available in hard copy and on the Internet by February 1.
Waiver Numbers: Various waivers - see attached list.

END OF WAIVER CONSENT AND WAIVERS ON PROPOSED CONSENT

ADDITIONAL PROPOSED WAIVER CONSENT ITEMS

ACTION: Member Aschwanden moved to approve the following additional proposed waiver consent items: WC-1, WC-3, and W-4. Member Cohn seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Rucker recused herself from participating in the discussion of the item and vote. Members Chan, Cushman, and Straus were absent for the vote.

Item WC-1
Subject: Request by Kern County Office of Education to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5,

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Section 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from a 25:1 to a 27.5:1 pupil-to-teacher ratio at Valley Oaks Charter School.
Waiver Number: 157-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-3
Subject: Request by Needles Unified School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year at Needles High School (requesting 18.9:1 student ratio on average in grades nine, ten, eleven and twelve).
Waiver Number: 28-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-4
Subject: Request by Wasco Union Elementary School District to waive portions of California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–11 school year for Thomas Jefferson Middle School (requesting 23:1 ratio on average in grade seven and 21:1 ratio in grade eight).
Waiver Number: 167-12-2010
Recommended for APPROVAL WITH CONDITIONS

END OF ADDITIONAL PROPOSED CONSENT ITEMS

NON-CONSENT WAIVER ITEMS

The following agenda items include waivers that CDE staff has identified as potentially having opposition, 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 by the President's designee; and action different from that recommended by CDE staff may be taken. The board took individual action on the following waiver items:

Item W-1
Subject: Request by three districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.
Waiver Numbers: 22-11-2010, 11-1-2011, and 18-11-2010

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Recommended for APPROVAL WITH CONDITIONS

ACTION: Member Cohn moved to approve CDE's staff recommendation. Member Aschwanden seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Rucker recused herself from participating in the discussion of the item and vote. Members Chan, Cushman, and Straus were absent for the vote.

Item W-2
Subject: Request by two districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376(a), (c), and (d) and 41378(a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one to three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 21-11-2010 and 5-12-2010.
Recommended for APPROVAL WITH CONDITIONS

ACTION: Member Molina moved that the waiver item be heard at the April 2011 board meeting. Member Ramos seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Member Rucker recused herself from participating in the discussion of the item and vote. Members Chan and Cushman were absent for the vote.

Item W-16
Subject: Request by Stanislaus County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Barbara Sires and Janet Spangler to continue to provide services to students under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 34-11-2010 and 36-10-2010
Recommended for DENIAL

ACTION: Member Aschwanden move to approve CDE's staff recommendation to deny the waiver request. Member Williams seconded the motion. The board voted, by show of hands, 7-0 to approve the motion. Members Chan, Cushman, and Straus were absent for the vote.

Item W-17
Subject: Request by San Joaquin County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that

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educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Brittany Pitsch (formerly Parker) to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum requirements.
Waiver Number: 170-12-2010
Recommended for APPROVAL WITH CONDITIONS

ACTION: Member Aschwanden moved to approve the waiver request with the following conditions: 1) The San Joaquin County Office of Education (COE) must revise its job description for educational interpreters to reflect the requirements of *California Code of Regulations*, Title 5, section 3051.16; 2) The San Joaquin COE must develop and individualized professional development plan for Ms. Pitsch and provide Ms. Pitsch with monthly one-on-one mentoring by a qualified interpreter; and 3) Ms. Pitsch must retake the Educational Interpreter Performance Assessment or the Educational Sign Skills Evaluation by June 30, 2011. Member Rucker seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Chan and Cushman were absent for the vote.

Item 23: Elementary and Secondary Education Act: Supplemental Educational Services – Adoption of Proposed *California Code of Regulations,* Title 5, Sections 13075.1 through 13075.9, Inclusive.

ACTION: Member Rucker moved to approve CDE's staff recommendation to take the following action:

- Approve the Final Statement of Reasons;
- Adopt the proposed regulations;
- Direct the CDE to submit the rulemaking file to the Office of Administrative Law (OAL) for approval; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Molina seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Chan and Cushman were absent for the vote.

Item 24: Assignment of Numbers for Charter School Petitions.

ACTION: Member Aschwanden moved to approve the assignment of charter numbers to the charter schools identified in Attachment 1. Member Cohn seconded

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the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Chan and Cushman were absent for the vote.

Item 25: Appointment of Beth Hunkapiller and Deborah Kennedy to positions in accordance with Article IX, Section 2.1, of the Constitution of the State of California.

ACTION: Member Cohn moved to approve the appointment of Beth Hunkapiller as Director for the Charter Schools Division and Deborah Kennedy as Chief Policy Advisor to the State Superintendent of Public Instruction in accordance with Article IX, Section 2.1 of the Constitution of the State of California and the provisions of the SBE Policy Number 2: Policy for the Appointment of Constitutional Officers. Member Molina seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Chan and Cushman were absent for the vote.

*****ADJOURNMENT OF MEETING *****

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State Board of Education
State Board of Education Board Room
April 21, 2011
Draft Minutes

Please note that the complete proceedings of the April 21, 2011, State Board of Education meeting, including close-captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Michael W. Kirst, President
Trish Williams, Vice President
Carl Cohn
Aida Molina
James C. Ramos
Patricia A. Rucker
Ilene W. Straus

Members Absent:
Jim Aschwanden
Yvonne Chan
Connor Cushman, Student Member

Secretary and Executive Officer
Tom Torlakson, State Superintendent of Public Instruction, Absent

Principal Staff
Patricia de Cos, Interim Executive Director, State Board of Education (SBE)
Jennifer Bunshoft, Deputy Attorney General and Acting Counsel for the SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Regina Wilson, Program Communications Analyst, SBE
Richard Zeiger, Chief Deputy Superintendent, California Department of Education (CDE)
Amy Holloway, General Counsel, CDE
Mary Prather, Program Administrator I, CDE
Michelle Zumot, Education Programs Consultant, CDE

CLOSED SESSION

Jennifer Bunshoft, Deputy Attorney General and Acting Counsel for the SBE reported that during closed session the Board discussed with counsel the following cases: *California School Boards Association, et al.* v. *California State Board of Education and Aspire Public Schools, Inc.*, Alameda Superior Court, Case No. 07353566; and *California School Boards Association, et al.* v.

California State Board of Education, et al., Sacramento Superior Court, Case No. 34-2008-00016957*.*

Item 1: Parent Empowerment – Approve Commencement of a Second 15-day Public Comment Period for Proposed Additions to the *California Code of Regulations*, Title 5, Sections 4800-4808.

ACTION: Member Straus moved that the SBE take the following actions:

- Approve putting forth for public comment the changes recommended by CDE staff to the proposed regulations, as well as the following particular portions of suggested amendments by various stakeholder groups and suggested amendments by SBE Member James Ramos, as options for public comment;

  - Under Section 4800.1:
    - Add a new optional subsection (k)(5): A school that exists Program Improvement shall not be subject to continued identification on the Parent Empowerment list.

  - Within Section 4800.5:
    - Add new optional language to read: The notice shall include the requirement that the LEA must hold at least two public hearings to notify staff, parents and the community of the school's designation and to seek input from staff, parents and the community regarding the option or options most suitable for the school. At least one of those public hearings shall be held at a regularly scheduled meeting, if applicable, and at least one of the public hearings shall be held on the site of a school deemed persistently lowest achieving.

    - Add new optional language to read: Any information provided on CDE's website shall also be available in multiple languages.

  - Under Section 4801:
    - Within the existing subsection (g), add new optional language to include "community members."

    - Also within the existing subsection (g), add the following new optional language: Signature gatherers shall disclose if they are being paid, and shall not be paid per signature.

- An entirely new optional subsection (g) would replace the existing subsection (g) and include the following language: Signature gatherers may not offer gifts, rewards, or tangible incentives to parents or legal guardians to sign a petition. Nor shall signature gatherers make any threats of coercive action, false statements or false promises of benefits to parents or legal guardians in order to persuade them to sign a petition, except that signature gatherers, school site staff or other members of the public may discuss education related improvements hoped to be realized by implementing any intervention described in these regulations. Signature gatherers, students, school site staff, LEA staff, members of the community and parents and legal guardians shall be free from harassment, threats, and intimidation related to circulation or signature of a petition, or to the discouraging of signing a petition or to the revocation of signatures from the petition.

- A new optional subsection (h) would include the following language: All parties involved in the signature gathering process shall adhere to all school site hours of operation, school and LEA safety policies, and visitor sign in and procedures.

- A new optional subsection (i) would include the following language: School or district resources shall not be used to influence the signature gathering process.

- A new optional subsection (j) would include the following language: This petition must meet the legal requirements of *Education Code* Section 48985.

o Within Section 4802:
  - Under subsection (i), include the optional language of “shall” instead of “may.”

  - Also within the existing subsection (g), add the following new optional language on the proposed front page of the petition: including contact information of the charter school operator, charter management organization or education management organization.

  - A new optional subsection (k) would include the following language: A petition requesting to implement the restart model intervention as a charter school model pursuant to paragraph (2) of subdivision (a) of *Education Code* sections 53202 and 4802.2, shall state that parent advisory committees or alternative programs if provided for in the LEA, will not be available in the restart model-charter school

nor is the charter school required to comply with the parent waiver requirements of *Education Code* sections 310 and 311.

- A new optional subsection (l) would include the following language: The CDE shall develop a sample petition that can be used by interested petitioners. The sample petition shall be available on the CDE website and available for distribution by LEAs to interested petitioners. The sample petition shall be available in other languages pursuant to *Education Code* Section 48985. Petitioners shall not be required to use the sample petition however alternate petitions must contain all required components pursuant to statutory and regulatory requirements.

- Add a new Section 4802.05 with the following subsections:
  - Subsection (a) would include the following language: Petitioners may not submit a petition until they reach or exceed the 50 percent threshold based on accurate and current enrollment data provided by the LEA. The date of submission of the petition shall be the start date for implementation of all statutory and regulatory requirements.

  - Subsection (b) would include the following language: An exception shall be made for a one-time resubmission opportunity to correct a petition based on errors identified by the LEA, verify signatures after a good faith effort is made by the LEA to do so first, or submit additional signatures. The start date for a resubmitted petition shall be the date it is resubmitted. No rolling petitions shall be accepted by the LEA.

  - Subsection (c) would include the following language: At the time of submission the petitioners shall submit a separate document that identifies at least one but no more than five lead petitioners with their contact information.

  - Subsection (d) would include the following language: The role of lead petitioners is to assist and facilitate communication between the parents who have signed the petition and the LEA. The lead petitioner contacts shall not be authorized to make decisions for the petitioners or negotiate on behalf of the parents.

- Under the existing Section 4802.1:
  - Add a new optional subsection (g)(4) that would include the following language: That the petition has not been translated into the number of languages as required by *Education Code* Section 48985.

- Add a new proposed Section 4802.1 with the following subsections:
  - Subsection (a) would include the following language: An LEA must provide, in writing, to any persons who request it, information as to how the LEA intends to implement section 4800.1(g) as to any subject school and any normally matriculating elementary or middle schools, including providing enrollment data and the number of signatures that would be required pursuant to section 4802.1(e).

  - Subsection (b) would include the following language: Upon receipt of the petition, the LEA may make reasonable efforts to verify that the signatures on the petition can be counted consistent with these regulations. The LEA and matriculating LEAs shall use common verification documents that contain parent or guardian signatures to verify petition signatures such as emergency verification cards signed by all parents or guardians. In order to verify the enrollment of a pupil in a school that normally matriculates into the subject school, but is not within the jurisdiction of the LEA, an LEA may contact the school or the LEA of the school. The matriculating LEA or school shall be required to provide information necessary to the subject school and LEA in order to assist in verifying signatures. An LEA shall not invalidate the signature of a parent or legal guardian of a pupil on a minor technicality where it is clearly the intent of the parent or legal guardian to support the petition and the parent or legal guardian is entitled to sign the petition. The LEA and the matriculating LEA or school shall make a good faith effort to contact parents or guardians when a signature is not clearly identifiable including phone calls to the parent or guardian.

  - Subsection (c) would include the following language: If, on the date the petition is submitted, a school is identified pursuant to section 4800.1(k), it shall remain a subject school until final disposition of the petition by the LEA even if it thereafter ceases to meet the definition of a subject school unless that school has exited federal Program Improvement and is at or over 800 on the Academic Performance Index.

  - Subsection (d) would include the following language: If a petition has sought only signatures of parents of pupils attending the subject school, then for purposes of calculating whether parents or legal guardians of at least one-half of pupils attending the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school on the date the petition is submitted to the LEA shall be counted.

- Subsection (e) would include the following language: If a petition has sought signatures of parents or legal guardians of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school, then for purposes of calculating whether the parents or legal guardians of at least one-half of pupils attending the subject school and the elementary or middle schools that normally matriculate into the subject school on the date the petition has been submitted have signed the petition, only those signatures of parents or legal guardians of pupils attending the subject school and the parents or legal guardians of pupils attending the elementary or middle schools who would normally matriculate into the subject school at the time the petition is submitted to the LEA shall be counted. Where pupils attend elementary or middle schools that normally matriculate into more than one subject school, only those pupils attending the subject school and those pupils that normally matriculate, as defined in section 4800.1(g), into the subject school, shall be counted in calculating whether at least one-half of the parents or legal guardians of pupils have signed the petition. There is no specified ratio required of signatures gathered at each school, rather the total ratio of signatures gathered must meet the one-half requirement.

- Subsection (f) would include the following language: In connection with the petition, the LEA may only contact parents or legal guardians to verify eligible signatures on the petition. The identified lead petitioners for the petition shall be consulted to assist in contacting parents or legal guardians when the LEA fails to reach a parent or legal guardian.

- Subsection (g) would include the following language: Upon receipt, the LEA may, within 40 calendar days, return the petition to the person designated as the contact person or persons as specified in section 4802(c), if the LEA determines any of the following:

  1. One half of the parents or legal guardians of pupils meeting the requirements of section 4801(a) have not signed the petition;

  2. The school named in the petition is not a subject school; or

  3. The petition does not substantially meet the requirements specified in section 4802. In such a case, the LEA shall immediately provide the contact person written notice of its reasons for returning the petition and its supporting findings.

- Subsection (h) would include the following language: If the LEA finds that sufficient signatures cannot be verified by the LEA they shall immediately notify the lead petitioner contacts and provide the lead petitioner the names of those parents and legal guardians they cannot verify. The lead petitioner contacts shall be provided 60 calendar days to assist the LEA to verify the signatures. A number of methods may be used including but not limited to an official notarization process or having the parent or guardian appear at the school or district office.

- Subsection (i) would include the following language: If the LEA finds a discrepancy or problem with a submitted petition they shall notify the lead petition contacts in writing and request assistance and clarification prior to the final disposition of the petition. The LEA shall identify which signatures need verification, any errors found in the petition or need for further clarification regarding the petition.

- Subsection (j) would include the following language: If the petition is returned pursuant to section 4802.1(g)(1), the same petition may be resubmitted to the LEA with verified signatures as long as no substantive changes are made to the petition. The petitioners shall be provided one resubmission opportunity which must be completed within a window of 60 calendar days after the return of the petition pursuant to 4802.1. This is the same window for verification of signatures and any corrections or additional signatures submitted. The LEA shall have 25 calendar days to verify the resubmitted signatures, additional signatures or corrections to the petition. The resubmitted petition may not contain substantive changes or amendments. If substantive changes are made to the petition, it must be recirculated for signatures before it may be submitted to the LEA and it shall be deemed a new petition.

- Subsection (k) would include the following language: If the LEA does not return the petition the LEA shall have 45 calendar days from the date the petition is received to reach a final disposition. The date may be extended by an additional 20 business days if the LEA and the person listed in section 4802(c) agree to the extension in writing.

- Subsection (l) would include the following language: The LEA shall notify the SSPI and the SBE in writing within ten business days of its receipt of a petition and within two business days of the final disposition of the petition. The notice of final disposition shall state that the LEA will implement the recommended option or include the

written finding stating the reason it cannot implement the specific recommended option, including the compelling interest that supports such a finding, designating which of the other options it will implement and stating that the alternative option selected has substantial promise of enabling the school to make adequate yearly progress.

- Subsection (m) would include the following language: If the number of schools identified in a petition and subject to an intervention by a final disposition will exceed the maximum of 75 schools pursuant to *Education Code* Section 53302, and the SSPI and the SBE receive two or more notifications of final dispositions that agree to implement an intervention on the same day, the petition will be chosen by random selection.

- Under Section 4802.2:
  - Within the existing subsection (c) add the following provisions of the *Education Code* to the signatures required to establish a charter school: 47605(a)(1) through (3) and 47605(b)(3).

  - Replace the proposed existing language with an entirely new subsection (e) using the following language: If the LEA has adopted the restart model as its final disposition, and a petition does not request that the subject school be operated under a specific charter school operator, charter management organization or education management organization, then the LEA shall promptly notify the petitioners that it has adopted the restart model and give the petitioners the option to solicit charter proposals from charter school operators, charter management organizations and education management organizations and select a specific charter school operator. If the petitioners opt to solicit charter proposals and select a specific charter school operator, they must submit the proposed charter school operator to the LEA. If the petitioners inform the LEA that they have declined the option to solicit charter proposals and select a charter school operator, the LEA shall, within 15 business days, solicit charter proposals from charter school operators, charter management organizations and education management organizations.

  - Replace the proposed existing language with an entirely new subsection (e) using the following language: Where the petitioners opt to submit a charter proposal for a specific operator to the LEA pursuant to section 4802.2, optional subsection (d), upon submission of the charter proposal, the LEA shall then conduct the rigorous review process regarding the specific charter required by

Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal. Where the LEA has solicited charter proposals because the petitioners have declined to do so, prior to selecting a particular charter school operator, charter management organization or education management organization, the LEA shall conduct the rigorous review process regarding the specific charter required by Education code section 53300 and section 4808, which includes compliance with the requirements and timelines set forth in Education Code section 47605, subdivisions (b) through (h), (j)(1) and (l), with the exception that the timelines set forth in section 47605(b) only begin once the LEA has received a charter proposal.

- Add an entirely new subsection (g) with the following language: The charter school established by a parent empowerment petition, must inform parents of the LEA choosing the charter school model, that parent advisory committees or alternative programs if provided for in the LEA, will not be available in the restart model-charter school nor is the charter school required to comply with the parent waiver requirements of *Education Code* sections 310 and 311.

- Replace the proposed existing language with an entirely new Section 4802.2 containing the following subsections:
  - Subsection (a) would include the following language: Except where specifically designated in this section, a charter school proposal submitted through a parent empowerment petition, shall be subject to all the provisions of law that apply to other charter schools.

  - Subsection (b) would include the following language: Parents or legal guardians of pupils will only need to sign the parent empowerment petition to indicate their support for and willingness to enroll their children in the requested charter school. A separate petition for the establishment of a charter school will not need to be signed. The signatures to establish a charter school pursuant to Education Code sections 47605(a)(1) through (3) and 47605(b)(3) will not be required if the petition that requests that the subject school be reopened under a specific charter operator, charter management organization or education management organization otherwise meets all the requirements of Education Code section 53300.

- Subsection (c) would include the following language: A petition that requests that the subject school be reopened under a specific charter school operator, charter management organization or education management organization may be circulated for signature with the proposed charter for the school. Upon receipt of the petition that requests a restart model as intervention and that includes a charter petition, the LEA must follow the provisions of section 4802.1 and determine whether it will implement the requested intervention options in *Education Code* Section 53300. If a petition requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to Section 4802.1(g) then the rigorous review process required by *Education Code* Section 53300 and Section 4804 shall be the review process and timelines set forth in *Education Code* Section 47605(b), excepting 47605(b)(3).

- Subsection (d) would include the following language: If a parent empowerment petition does not include the proposed charter but requests that the subject school be operated under a specific charter school operator, charter management organization or education management organization, and the LEA does not reject the petition pursuant to section 4802.1(g), then the LEA must either:

  1. Immediately solicit charter proposals from charter school operators, charter management organizations and education management organizations and, shall select a charter school operator, charter management organization or education management organization, through the rigorous review process required by *Education Code* Section 53300 and Section 4804. The rigorous review process shall be the review process and timelines set forth in *Education Code* Section 47605(b), excepting 47605(b)(3), and shall begin at the end of a solicitation period not to exceed 90 calendar days; or,

  2. Direct the parent petitioner(s) to submit a charter proposal that meets the requirements of *EC* Section 47605(b), excepting 47605(b)(3), within 90 calendar days. Upon submittal of the charter proposal, the LEA shall conduct the rigorous review process required by *Education Code* Section 53300 and Section 4804, which shall be the review process and timelines set forth in *Education Code* Section 47605(b) excepting 47605(b)(3).

- Subsection (e) would include the following language: If the parents petition for a restart option to operate the school under an educational management organization that is not a charter school, the LEA shall work in good faith to implement a contract with a provider selected by the parents. In the absence of parent selection of a specific provider, the LEA shall immediately solicit proposals from educational management organizations, and shall select an education management organization, through the rigorous review process required by *Education Code* Section 53300 and Section 4804 unless the LEA is unable to implement the option requested by the parents and shall implement one of the other options specified in *Education Code* Section 53300.

o At the end of the existing Section 4808:
  - Add the following language: "to the extent permitted by law."

- Direct the proposed changes be circulated for a second 15-day public comment period in accordance with the Administrative Procedure Act;

- If no relevant comments to the proposed changes are received during the second 15-day public comment period, the proposed regulations with changes are deemed adopted, and the California Department of Education (CDE) is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval;

- If any relevant comments to the proposed changes are received during the second 15-day public comment period, the CDE is directed to place the proposed regulations on a future SBE agenda for action; and

- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Ramos seconded the motion. The board voted, by show of hands, 7-0 to approve the motion.

Item 2: State Board of Education Delegation of Authority for the Approval of the Striving Readers Comprehensive Literacy Grant Application for Children From Birth Through Grade Twelve as Developed by the California Department of Education and Striving Readers Comprehensive Literacy Plan State Literacy Team.

ACTION: Member Molina moved to delegate authority to the State Board of Education (SBE) President to submit California's Striving Readers Comprehensive Literacy (SRCL) competitive grant application by May 9, 2011, as developed by the California Department of Education and SBE staff and the Striving Readers Comprehensive Literacy State Team, to the U.S. Department of Education for review and consideration. Member Cohn seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Rucker was absent for the vote.

Item 3: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; board liaison reports, and other matters of interest.

No action was taken on this item.

Item 4: 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.

No action was taken on this item.

WAIVER REQUEST CONSENT MATTERS AND PROPOSED WAIVER CONSENT ITEMS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in *the California Education Code EC* or in the *California Code of Regulations*, CCR, Title 5 and proposed waiver consent items.

The following agenda items were proposed for approval on the waiver consent calendar and proposed waiver consent items: WC-1 through WC-3 and W-1 through W-8.

ACTION: Member Ramos moved to approve the proposed waiver consent calendar and proposed waiver consent items: WC-1 through WC-3 and W-1 through W-8. Member Cohn seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Rucker was absent for the vote.

Item WC-1 Specific
Subject: Request by Plum Valley Elementary School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council to function for Plum Valley Elementary School.
Waiver Number: 186-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-2 Specific
Subject: Request by Antelope Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for three small schools: Antelope Elementary School, Berrendos Middle School, and Antelope Community Day School.
Waiver Number: 23-11-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-3 General
Subject: Request by Plumas County Office of Education for a renewal to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Heather Cooke to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum requirements.
Waiver Number: 162-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-1 General
Subject: Request by Alpine County Unified School District for a waiver of California *Education Code* Section 48916.1(d) and portions of Section 48660 to permit a community day school to serve students in grades five through six with students in grades seven through twelve.
Waiver Number: 20-11-2010
Recommended for APPROVAL

Item W-2 General
Subject: Request by Firebaugh-Las Deltas Joint Unified School District for a waiver of California *Education Code* Section 48916.1(d) and portions of Section 48660 to permit a community day school to serve students in grades one through twelve.
Waiver Number: 57-2-2011
Recommended for APPROVAL

Item W-3 General
Subject: Request by Turlock Unified School District to waive portions of the California *Education Code* Section 15282, regarding term limits for members of a Citizen's Oversight Committee for all construction bonds in the district.
Waiver Numbers: 37-1-2011 and 38-1-2011
Recommended for APPROVAL WITH CONDITIONS

Item W-4 General
Subject: Request by Visalia Unified School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5019.5, 5021, and 5030 that require a district-wide election to establish new trustee areas.
Waiver Number: 161-12-2010
Recommended for APPROVAL

Item W-5 Specific
Subject: Request by Coffee Creek Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Coffee Creek Elementary School.
Waiver Number: 47-12-2010
Recommended for APPROVAL WITH CONDITIONS

Item W-6 Specific
Subject: Request by Delano Joint Union High School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural continuation school, Valley High School.
Waiver Number: 179-12-2010
Recommended for APPROVAL WITH CONDITIONS

Item W-7 Specific
Subject: Request by Hilmar Unified School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Irwin Continuation High School.
Waiver Number: 169-12-2010
Recommended for APPROVAL WITH CONDITIONS

Item W-8 Specific
Subject: Request by Modoc County Office of Education under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for three

schools, Tulelake Elementary School, Newell Elementary School, and Modoc County Community School Tulelake.
Waiver Number: 201-12-2010
Recommended for APPROVAL WITH CONDITIONS

END OF WAIVER REQUEST CONSENT MATTERS AND PROPOSED WAIVER CONSENT ITEMS

NON-CONSENT WAIVER ITEM

Item W-9 Specific
Subject: Request by two districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376 (a), (c), and (d) and 41378 (a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one to three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 21-11-2010 and 5-12-2010.
Recommended for APPROVAL WITH CONDITIONS

ACTION: Member Cohn moved to approve the waiver for the Montebello Unified School District. Member Williams seconded the motion. The board voted, by show of hands, 6-0 to approve the motion. Member Rucker recused herself from participating in the item's discussion and vote.

***** ADJOURNMENT OF MEETING *****

State Board of Education
State Board of Education Board Room
May 11-12, 2011
Draft Minutes

Please note that the complete proceedings of the May 2011State Board of Education meeting, including close captioning, are available online at: http://www.cde.ca.gov/be/ag/ag/sbewebcastarchive.asp.

Members Present:
Michael W. Kirst, President
Trish Williams, Vice President
James Aschwanden
Yvonne Chan
Carl Cohn
Aida Molina
James C. Ramos
Patricia A. Rucker
Ilene W. Straus
Connor Cushman, Student Member

Members Absent:
None

Secretary and Executive Officer
Tom Torlakson, State Superintendent of Public Instruction

Principal Staff
Patricia de Cos, Interim Executive Director, SBE
Jennifer Bunshoft, Deputy Attorney General and Acting Counsel for the SBE
Jennifer Johnson, Education Policy Consultant, SBE
Beth Rice, Education Programs Consultant, SBE
Regina Wilson, Program Communications Analyst, SBE
Richard Zeiger, Chief Deputy Superintendent, California Department of Education (CDE)
Amy Holloway, General Counsel, CDE
Mary Prather, Education Administrator I, CDE

Item 1
Subject: National Assessment of Educational Progress (NAEP): Presentation by the NAEP 12th Grade Preparedness Commission Regarding the Preparedness of 12th Graders for Postsecondary Education and Job Training.

No action was taken on this item.

Item 2
Subject: Permits to Employ and Work–Approve Commencement of the Rulemaking Process for Additions to the *California Code of Regulations,* Title 5, Sections 10120.1 through 10121.

ACTION: Member Aschwanden moved to take the following actions:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the CDE to commence the rulemaking process.

Member Chan seconded the motion. The Board voted by a show of hands, 10-0, to approve the motion.

Item 3
Subject: Appeal of a Decision by the Santa Clara County Committee on School District Organization to Disapprove a Petition to Transfer Territory from the Mountain View Whisman School District and Mountain View-Los Altos Union High School District to the Palo Alto Unified School District in Santa Clara County (San Antonio Village).

This item was withdrawn by the petitioners.

Item 4
Subject: Update on Issues Related to California's Implementation of the Elementary and Secondary Education Act and Other Federal Programs Including, but Not Limited to, the School Improvement Grant and California's Striving Readers Comprehensive Literacy Program.

No action was taken on this item.

Item 5
Subject: Elementary and Secondary Education Act: Approval of Local Educational Agency Plans, Title I, Section 1112.

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ACTION: Member Rucker moved to approve the CDE staff recommendation to approve the 29 LEA Plans listed in Attachment 1 and directed the following LEAs to revise and resubmit their LEA Plan for the 2011-2012 academic school year, based upon technical assistance from the CDE, by September 1, 2011, using the current rubric:

- Fernando Pullum Performing Arts High School (19-64733-0115295)[1]
- Frederick Douglass Academy Charter Elementary (19-64733-0117952)
- Frederick Douglass Academy Charter High (19-64733-0112557)
- Frederick Douglass Academy Charter Middle (19-64733-0112433)
- ICEF Inglewood Elementary Charter Academy (19-64634-012030)
- ICEF Inglewood Middle Charter Academy (19-64634-0120311)
- ICEF Vista Elementary Charter Academy (19-64733-0117937)
- ICEF Vista Middle Charter Academy (19-64733-0115287)
- Lou Dantzler Preparatory Charter Elementary (19-64733-0117945)
- Lou Dantzler Preparatory Charter High (19-64733-0112540)
- Lou Dantzler Preparatory Charter Middle (19-64733-0112227)
- Thurgood Marshall Charter Middle School (19-64733-0115261)

Member Molina seconded the motion. The Board voted by a show of hands, 8-0 to approve the motion. Members Cushman and Cohn were absent for the vote.

Item 6
Subject: Approval of 2010–11 Consolidated Applications.

ACTION: Member Aschwanden moved to approve the 2010–11 Consolidated Applications (ConApps) submitted by local educational agencies (LEAs) in Attachment 1 of Item 5. Member Rucker seconded the motion. The Board voted by a show of hands, 10-0 to approve the motion.

[1] County-District-School Code

DRAFT

Item 7
Subject: Assignment of Numbers for Charter School Petitions.

ACTION: Member Aschwanden moved to assign charter numbers to the charter schools identified on the list attached to Item 7. Member Williams seconded the motion. The Board voted by a show of hands, 8-0 to approve the motion. Members Molina and Rucker were absent for the vote.

*****PUBLIC HEARING*****

Item 8
Subject: Statewide Benefit Charter Schools: Consideration of Material Revisions to the Aspire Public Schools Statewide Benefit Charter.

ACTION: Vice President Williams moved to have the Board find that Aspire Public Schools Statewide Benefit Charter's (Aspire) benefit in terms of funding and its ability to get statewide bonds constitutes a statewide benefit in accordance with *Education Code* (*EC*) Section 47605.8 (b) and Title 5, *California Code of Regulations* Section 11967.6 (b). Member Straus seconded the motion. The board voted by roll call, 6-2 with one abstention, to pass the motion. Member Rucker had recused herself from participating in the item and vote.

Yes votes: Members Chan, Kirst, Molina, Ramos, Straus, and Williams
No votes: Members Aschwanden and Cohn
Abstention: Member Cushman

ACTION: Vice President Williams moved to have the Board find that Aspire's benefit in terms of funding could not be provided by a series of local charters. Member Straus seconded the motion. The board voted by roll call, 6-2 with one abstention, to pass the motion. Member Rucker had recused herself from participating in the item and vote.

Yes votes: Members Chan, Kirst, Molina, Ramos, Straus, and Williams
No votes: Members Aschwanden and Cohn
Abstention: Member Cushman

ACTION: Vice President Williams moved to have the Board find that Aspire's benefit in terms of being able to expand its teacher residency program constitutes a statewide benefit in accordance with *EC* Section 47605.8 (b) and Title 5, *California Code of Regulations* Section 11967.6 (b). Member Chan seconded the motion. The

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board voted by roll call, 6-2 with one abstention, to pass the motion. Member Rucker had recused herself from participating in the item and vote.

Yes votes: Members Chan, Cushman, Kirst, Molina, Straus, and Williams
No votes: Members Aschwanden and Cohn
Abstention: Member Ramos

ACTION: Vice President Williams moved to have the Board find that Aspire's benefit related to the teacher residency program could not be provided through a series of local charters. Member Chan seconded the motion. The board voted by roll call, 7-2 to pass the motion. Member Rucker had recused herself from participating in the item and vote.

Yes votes: Members Chan, Cushman, Kirst, Molina, Ramos, Straus, and Williams
No votes: Members Aschwanden and Cohn

ACTION: Vice President Williams moved to have the Board find that Aspire has fully or substantially complied with all pre-opening conditions for operation for approval that were established by the state board and/or the CDE for its statewide charter, and to waive any deadline that may or may not have been met in a timely fashion by Aspire. Member Chan seconded the motion. The board voted by roll call, 6-3 to pass the motion. Member Rucker had recused herself from participating in the item and vote.

Yes votes: Members Chan, Cushman, Kirst, Ramos, Straus, and Williams
No votes: Members Aschwanden, Cohn, and Molina

ACTION: Vice President Williams moved to vote on Aspire Public Schools Statewide Benefit Charter's Proposed Material Revisions by affirming the previous five actions as a whole package as the board's response to Aspire's request for consideration of Material Revisions (i.e., the first two-step finding that the benefit in terms of funding constitutes a statewide benefit , and that this benefit cannot be accomplished through a series of locally-approved charters; the second two-step finding that the expansion of Aspire's teacher residency program constitutes a statewide benefit, and that this benefit cannot be provided through a series of locally-approved charters; and the finding that Aspire has met the Proposed Conditions Prior to Opening and Operation, and that the board waived any deadline that may have been missed previously). Member Chan seconded the motion. The board voted by roll call, 7-2 to pass the motion. Member Rucker had recused herself from participating in the item and vote.

Yes votes: Members Chan, Cushman, Kirst, Molina, Ramos, Straus, and Williams
No votes: Members Aschwanden and Cohn

*****END OF PUBLIC HEARING*****

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CLOSED SESSION

President Kirst reported that during closed session the Board discussed with counsel the case *California School Boards Association, et al.* v. *California State Board of Education* and *Aspire Public Schools, Inc.* Alameda Superior Court, Case No. 07353566. Jennifer Bunshoft, Deputy Attorney General and acting counsel for the SBE, reported that the Board also discussed the case *Doe, Jane, and Jason Roe* v. *State of California, Tom Torlakson, The California Department of Education, and The State Board of Education,* Los Angeles Superior Court, Case No. BC445151.

Item 9
Subject: Charter Renewal: Approve Commencement of Second 15-Day Public Comment Period for Proposed Changes to the *California Code of Regulations,* Title 5, Sections 11966.4, 11966.5, 11966.6, and 11967.5.1.

ACTION: Member Chan moved the Board take the following actions:

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a second 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the second 15-day public comment period, the proposed amendments with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval and provide an update of the status at the SBE's next regularly scheduled board meeting;
- If any relevant comments to the proposed changes are received during the second 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's July 2011 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

Member Rucker seconded the motion. The Board voted by a show of hands, 10-0 to approve the motion.

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Item 10
Subject: Consideration of Requests for Determination of Funding Rates as Required for Nonclassroom-based Charter Schools.

ACTION: Member Rucker moved to approve the funding rate of 100 percent for two years for fiscal years 2010-11 through 2011-2012 for nonclassroom-based instruction for the following charter schools:

- Keegan Academy (1158)[2]
- Milestones Cooperative Charter (1248)
- Mount Whitney Virtual Academy (1251)
- National University Academy Armona (1168)
- River Oaks Academy (1256)
- Charter Alternative Program (0360)
- Ivy Tech Charter (1202)
- Anchor Academy Charter (1245)

Member Chan seconded the motion. The Board voted by a show of hands, 10-0 to approve the motion.

ACTION: Member Chan moved to approve:

1) The funding rate of 100 percent for two years for fiscal years 2010-11 through 2011-12 for nonclassroom-based instruction for the following charter schools:

   - Clovis Online Charter (1006)
   - Madera City Independent Academy (1001)

2) The funding rate of 100 percent for three years for fiscal years 2010-11 through 2012-13 for the following charter schools:

   - Learning Works! Charter (1031)

[2] Charter Number

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- National University Academy (0991)
- Raverndale-Termo Charter (1032)

Member Rucker seconded the motion. The Board voted by a show of hands, 9-0 to approve the motion. Member Cushman was absent for the vote.

ACTION: Member Straus moved to approve:

1) The funding rate of 100 percent for two years for fiscal years 2011-12 through 2012-13 for nonclassroom-based instruction for Stockton Alternative High School (1084)

2) The funding rate of 100 percent for three fiscal years 2011-12 through 2013-14 for nonclassroom-based instruction for the following charter schools:

- CORE Pacer Charter (1064)
- Creekside Cooperative Charter (1102)
- Dunlap Leadership Charter (1074); and
- Kaplan Academy California Central California (1111)
- Kaplan Academy California North Central California (1129)
- Kaplan Academy California San Diego (1065)
- Kaplan Academy California San Francisco Bay (1112)
- Mercury On-line Academy Southern California (1104)
- New Day Academy (1123)
- Pivot Online Charter North Bay (1139)
- San Diego Neighborhood Homeschools (1077)
- Alta Vista Public Charter (1147)
- Crescent View South Charter (1138)
- Diego Hills Charter School (1088)

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Member Rucker seconded the motion. The Board voted by a show of hands, 10-0 to approve the motion.

ACTION: Member Rucker moved to approve the funding rate of 100 percent for four years for fiscal years 2011-12 through 2014-15 for nonclassroom-based instruction for the following charter schools:

- Charter Community Schools (0005)
- Dehesa Charter School (0419)
- Olive Grove Charter School (0421)

Member Chan seconded the motion. The Board voted by a show of hands, 10-0 to approve the motion.

ACTION: Member Straus moved to approve: 1) the funding rate of 100 percent for four years for fiscal years 2011-12 through 2014-15 for nonclassroom-based instruction for Learning Choice Academy Charter School (0659), and 2) the funding rate of 100 percent for five years for fiscal years 2011-12 through 2015-16 for nonclassroom-based instruction for River Valley Charter School (0120).

Member Williams seconded the motion. The Board voted by a show of hands, 9-1 to approve the motion.

Yes Votes: Members Aschwanden, Cohn, Cushman, Kirst, Molina, Ramos, Rucker, Straus, and Williams
No Vote: Member Chan

Item 11
Subject: Consideration of Mitigating Circumstances Requests for Senate Bill 740 Determination of Funding Rates as Required for Nonclassroom-based Charter Schools: Shasta Secondary Home School and Coastal Academy Charter School.

ACTION: Member Straus moved to approve the requests of Shasta Secondary Home School and Coastal Academy Charter School, to allow the inclusion of mitigating circumstances in the determination of funding rates required by California *Education Code* (*EC*) Sections 47612.5 and 47634.2 and implemented through *California Code of Regulations*, Title 5 (5 *CCR*) Section 11963.4(e). Member Aschwanden seconded the motion. The Board voted by a show of hands, 10-0 to approve the motion.

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Item 12
Subject: STATE BOARD PROJECTS AND PRIORITIES.
Including, but not limited to, future meeting plans; agenda items; and officer nominations and/or elections; State Board office budget, staffing, appointments, and direction to staff; declaratory and commendatory resolutions; update on litigation; bylaw review and revision; Board policy; approval of minutes; Board liaison reports; training of Board members; and other matters of interest.

ACTION: Member Ramos moved to plan and establish the American Indian Advisory Commission. Member Cohn seconded the motion. The Board voted by a show of hands, 10-0 to approve the motion.

Item 13
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.

No action was taken on this item.

CLOSED SESSION

Jennifer Bunshoft, Deputy Attorney General and Acting Counsel for the SBE, reported that during Closed Session the board discussed the case *Emma C., et al.* v. *Delaine Eastin, et al.*, United States District Court, Northern District of California, Case No. C964179.

Item 14
Subject: African American Advisory Committee: California Department of Education's Response to Committee's Accountability and Special Education Recommendations.

No action was taken on this item.

Item 15
Subject: Request by Compton Unified School District to be a Single District Special Education Local Plan Area.

ACTION: Member Chan moved to deny the Compton Unified School District's (CUSD) application to be a single district special education local plan area (SELPA),

based on insufficient size and scope to qualify as a special education local plan area (SELPA), pursuant to California *Education Code (EC)* Section 56195.1. Member Cushman seconded the motion. The Board voted by a role call vote, 3-7. The motion failed.

Yes Votes: Members Chan, Cushman, and Kirst
No Votes: Members Aschwanden, Cohn, Molina, Ramos, Rucker, Straus, and Williams

FINAL ACTION: Member Cohn moved to approve the Compton Unified School District (CUSD) application to be a single district special education local plan area (SELPA) and that size and scope requirements be waived. Member Molina seconded the motion. The Board voted by a show of hands, 7-3 to approve the motion.

Yes Votes: Members Aschwanden, Cohn, Molina, Ramos, Rucker, Straus, and Williams
No Votes: Members Chan, Cushman, and Kirst

Item 16
Subject: Elementary and Secondary Education Act: Proposed Alternatives for the Review of 92 Local Educational Agencies in Cohort 1 Program Improvement Corrective Action.

ACTION: Member Aschwanden moved that the Board take action to review data tables and displays and approve the use of all, or select, tables and displays to provide a comprehensive review of student academic achievement progress for each of the 92 local educational agencies (LEAs) identified for Program Improvement (PI) Year 3 Corrective Action in 2007–08 (Cohort 1) to learn more about what is working and not working to improve student achievement and why.

Member Chan seconded the motion. The board voted, by a show of hands 6-0 to approve the motion. Members Cohn, Cushman, and Rucker were absent for the vote. Member Molina recused herself from participating in the item and vote.

Item 17
Subject: Elementary and Secondary Education Act: Quarterly Report on Recurring Findings from the 2010 United States Department of Education Title I Monitoring Visit.

ACTION: Member Aschwanden moved to direct the President of the Board, in conjunction with the State Superintendent of Public Instruction (SSPI), to:

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- Approve the submission of California's Quarterly Report (Attachment 1) to the Student Achievement and School Accountability (SASA) Programs of the U.S. Department of Education (ED), and

- Authorize the CDE to submit the required July 2011 Quarterly Report, providing any updated evidence to resolve findings on the conditions of the California Title I Part A grant.

Member Chan seconded the motion. The board voted, by show of hands, 8-0 to approve the motion. Members Cohn and Cushman were absent for the vote.

Item 18
Subject: Elementary and Secondary Education Act: Supplemental Educational Services Providers: Approval of Providers to the 2011–13 State Board of Education-Approved Supplemental Educational Services Provider List and Request for Two Waivers Under Title I, Part A Section 9401 of the Elementary and Secondary Education Act.

ACTION: Member Aschwanden moved to approve the SES provider listed in Attachment 3 of Item 18. Member Rucker seconded the motion. The Board voted, by show of hand, 8-0 to approve the motion. Members Cohn and Cushman were absent for the vote.

ACTION: Member Aschwanden moved to approve CDE's request for two waivers for the 2011–12 school year with the understanding that the CDE staff will return to the Board with an identified list of LEAs who have applied to be SES providers and who are also in Program Improvement (PI) and their status in PI. The two waivers are to:

- Allow all interested local educational agencies (LEAs) identified for improvement or corrective action to serve as SES providers, and

- Allow an LEA the flexibility to offer SES to eligible students in Title I schools in year one of Program Improvement (PI) and to count the costs of providing SES to those students toward meeting the LEA's 20 percent obligation.

Member Straus seconded the motion. The board voted, by a show of hands, 8-0 to approve the motion. Members Cohn and Cushman were absent for the vote.

Item 19
Subject: Inclusion of Alternative Education Program Accountability Results in the Academic Performance Index – Approve Commencement of the Rulemaking Process

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for Amendments to the *California Code of Regulations*, Title 5, Sections 1039.2 and 1039.3.

ACTION: Member Rucker moved to take the following actions:

- Approve the Notice of Proposed Rulemaking;
- Approve the Initial Statement of Reasons;
- Approve the proposed regulations; and
- Direct the CDE to commence the rulemaking process.

Member Aschwanden seconded the motion. The board voted, by show of hands 8-0 to approve the motion. Members Cohn and Cushman were absent for the vote.

Item 20
Subject: California English Language Development Test Program: Preliminary Annual Assessment Results for 2010–11.

No action was taken on this item.

Item 21
Subject: Legislative and Budget Update, Including, but Not Limited to, Information on the 2011–12 Legislative Session.

No action was taken on this item.

WAIVER REQUEST CONSENT ITEMS AND PROPOSED WAIVER CONSENT ITEMS

The following agenda items satisfy criteria for approving a waiver of that type based on a previously-adopted State Board of Education waiver policy or have waiver evaluation criteria that are in *the* California *Education Code (EC)* or in the *California Code of Regulations* (CCR), Title 5.

The following agenda items were proposed for approval on the waiver consent calendar: WC-2 through WC-4, WC-6 through WC-11, WC-13, W-3 through W-4, W-6 through W-9, W-11 through W-21, and W-23 through W-28.

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ACTION: Member Rucker moved to approve the following waiver consent items: WC-2 through WC-4, WC-6 through WC-11, WC-13, W-3 through W-4, W-6 through W-9, W-11 through W-21, and W-23 through W-28. Member Aschwanden seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

WAIVER REQUEST CONSENT ITEMS

Item WC-2 Federal
Subject: Request by Southern Humboldt Joint Unified School District for South Fork Junior-Senior High School for a waiver of Section 131(c)(1) of the Carl D. Perkins Career and Technical Education Improvement Act of 2006 (Public Law 109-270.)
Waiver Number: Fed-59-2011
(Recommended for APPROVAL)

Item WC-3 Specific
Subject: Request by Placer Hills Union Elementary School District Request by Placer Hills Union Elementary School District under the authority of California *Education Code* Section 46206 to waive the Longer Year audit penalty in *Education Code* Section 46200(c) for offering less than the required instructional days in the 2007-08 fiscal year at Weimar Hills School, for students in grades four and five (shortfall of one day).
Waiver Number: 62-1-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-4 General
Subject: Request by San Juan Unified School District for a renewal to waive portions of California *Education Code* (*EC*) Section 51222(a), related to the statutory minimum of 400 minutes of physical education required each ten days for students in grades nine through twelve in order to implement a block schedule at Del Campo, Mesa Verde, Casa Roble and Encina Preparatory High Schools.
Waiver Number: 104-2-2011
(Recommended for APPROVAL) *EC* 33051(b) will apply

Item WC-6 General
Subject: Request by Santa Barbara Secondary School District to waive all of California *Education Code* Section 35101 and portions of California *Education Code* sections 35100 and 35737 regarding election of governing board members; all of California *Education Code* Section 35710.51 and portions of California *Education Code* Section 35710 regarding elimination of election requirement; and portions of California *Education Code* Section 35534 regarding effective date of reorganization.
Waiver Number: 21-2-2011 (election of board members); 22-2-2011 (elimination of election); 23-2-2011 (effective date).
(Recommended for APPROVAL WITH CONDITIONS)

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Item WC-7 General
Subject: Request by Central Union Elementary School District to waive California *Education Code* Section 5020, and portions of sections 5019, 5021, and 5030, that require a district-wide election to establish new trustee areas.
Waiver Number: 106-2-2011
(Recommended for APPROVAL)

Item WC-8 Specific
Subject: Request by Wheatland Union High School District Request by Wheatland Union High School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 95-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-9 General
Subject: Request by Madera County Office of Education to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance for an extended school year for special education students.
Waiver Number: 177-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-10 Specific
Subject: Request by Mill Valley Elementary School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Yasuko Morimoto is assigned to Tamalpais Valley Elementary School.
Waiver Number: 88-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item WC-11 Specific
Subject: Request by San Mateo County SELPA under authority of California *Education Code* Section 56101 to waive *Education Code* Section 56366.1(h), the August through October 31 timeline for an annual certification renewal application, for Maxim Healthcare Services, a nonpublic agency.
Waiver Number: 49-2-2011
(Recommended for APPROVAL)

Item WC-13 General

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Subject: Request by ten local educational agencies to waive the State Testing Apportionment Information Report deadline of December 31 in the *California Code of Regulations*, Title 5, Section 11517.5(b)(1)(A) regarding the California English Language Development Test; or Title 5, Section 1225(b)(2)(A) regarding the California High School Exit Examination; or Title 5, Section 862(c)(2)(A) regarding the Standardized Testing and Reporting Program.
Waiver Numbers: 32-2-2011, 56-1-2011, 56-2-2011, 56-12-2010, 63-2-2011, 91-2-2011, 92-2-2011, 93-2-2011, 115-2-2011, and 118-1-2011.
(Recommended for APPROVAL)

END OF WAIVER CONSENT

PROPOSED WAIVER CONSENT ITEMS

Item W-3 Federal
Subject: Request from fifty-eight local educational agencies to waive up to two types of requirements pertaining to Title I, Part A of the Elementary and Secondary Education Act for the 2010–11 fiscal year only.
Waiver Numbers: Various
(Recommended for APPROVAL WITH CONDITIONS)

Item W-4 General
Subject: Request by Siskiyou County Office of Education to waive a portion of California *Education Code* Section 35330(d) to authorize expenditure of school district funds for students to travel to Oregon to attend curricular and extra curricular trips/events and competitions.
Waiver Number: 2-3-2011
(Recommended for APPROVAL)

Item W-6 General
Subject: Request by Corcoran Joint Unified School District to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class sizes by an average of five students per class by the end of the 2010–2011 school year at Corcoran High School (requesting 24:1 student ratio on average in grades nine, ten and 21:1 for grade twelve).
Waiver Number: 90-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-7 General
Subject: Request by Twin Rivers Unified School Distirct to waive California *Education Code* Section 52055.740(a), regarding class size reduction requirements under the Quality Education Investment Act, that this funded school reduce its class

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sizes by an average of five students per class by the end of the 2011–12 school year at Harmon Johnson Elementary School (requesting 25:1 student ratio on average in grades four, five, and six).
Waiver Number: 103-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-8 General
Subject: Request by thirty-four local educational agencies to waive portions of California *Education Code* sections 35256 (c) and 35258 regarding the annual deadline to make the annual School Accountability Report Card available in hard copy and on the Internet by February 1.
Waiver Numbers: Various - see attached list.
(Recommended for APPROVAL)

Item W-9 General
Subject: Request by Washington Unified School District to waive portions of California *Education Code* sections 35576 and 35784 to allow allocation of existing bonded indebtedness to be unaffected by lapsation and unification of school districts.
Waiver Number: 42-3-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-11 General
Subject: Request by Mendocino County Office of Education to waive California *Education Code* Section1004 that requires an election to reduce the number of governing board members from seven to five.
Waiver Number: 21-3-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-12 Specific
Subject: Request by Maple Creek Elementary School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, to allow a reduction in the number and composition of members required for a schoolsite council for a small rural school, Maple Creek Elementary School.
Waiver Number: 116-1-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-13 Specific
Subject: Request by Mariposa County Office of Education under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing a reduction in the number and composition of members required for a schoolsite council for a small Community Day School, Jessie Benton Fremont.
Waiver Number: 166-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-14 Specific

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Subject: Request by Hanford Elementary School District under the authority of California *Education Code* Section 52863 for a renewal waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two schools: Hanford Elementary Community Day School and Hamilton Elementary School.
Waiver Number: 118-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-15 Specific
Subject: Request by Washington Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools: Bryte Elementary School and Evergreen Elementary School.
Waiver Number: 51-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-16 Specific
Subject: Request by Mariposa County Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council with a reduced number and composition to function for two small schools: Yosemite Park High School and El Portal Elementary School.
Waiver Number: 163-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-17 Specific
Subject: Request by Mariposa County Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council with a reduced number and composition to function for two small schools, Coulter-Greeley Elementary School and Coulterville High School.
Waiver Number: 168-12-2010
(Recommended for APPROVAL WITH CONDITIONS)

Item W-18 Specific
Subject: Request by Washington Unified School District under the authority of California *Education Code* Section 52863 for a waiver of *Education Code* Section 52852, allowing one joint schoolsite council to function for two small schools, Evergreen Middle School and Yolo Continuation High School.
Waiver Number: 52-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-19 Specific
Subject: Request by Lassen County Office of Education to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent)

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to be given a diploma of graduation, for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 60-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-20 Specific
Subject: Request by Lindsay Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation for one special education student based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 4-3-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-21 Specific
Subject: Request by Natomas Unified School District to waive California *Education Code* Section 51224.5(b), the requirement that all students graduating in the 2010-11 school year be required to complete a course in Algebra I (or equivalent) to be given a diploma of graduation, for four special education students based on *Education Code* Section 56101, the special education waiver authority.
Waiver Number: 125-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-23 General
Subject: Request by Riverside County Office of Education to waive *California Code of Regulations*, Title 5, Section 3051.16(b)(3), the requirement that educational interpreters for deaf and hard of hearing pupils meet minimum qualifications as of July 1, 2009, to allow Mary Ellen King, Kimberly Kearney, Penny Slater, and Heedy Dembowski to continue to provide services to students until June 30, 2011, under a remediation plan to complete those minimum qualifications.
Waiver Numbers: 34-2-2011, 35-2-2011, 36-2-2011, 37-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-24 Specific
Subject: Request by El Centro Elementary School District to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students.
Waiver Number: 71-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-25 General
Subject: Request by Gateway Unified School District to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of

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attendance of four hours each for an extended school year (summer school) for special education students.
Waiver Number: 69-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-26 General
Subject: Request by Shasta County Office of Education to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year for special education students.
Waiver Number: 101-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-27 General
Request by Imperial County Office of Education to waive *California Code of Regulations*, Title 5, Section 3043(d), which requires a minimum of 20 school days of attendance of four hours each for an extended school year (summer school) for special education students.
Waiver Number: 36-3-2011
(Recommended for APPROVAL WITH CONDITIONS)

Item W-28 Specific
Subject: Request by Waterford Unified School District under the authority of California *Education Code* Section 56101 and *California Code of Regulations*, Title 5, Section 3100 to waive *Education Code* 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). Jean Jacob is assigned at Richard Moon Primary School and Lucille Whitehead Intermediate School.
Waiver Number: 44-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

END OF PROPOSED CONSENT ITEMS

NON-CONSENT WAIVER ITEMS

Item WC-1 General
Subject: Request by Alpaugh Unified School District to waive portions of California *Education Code* Section 51745.6, and *California Code of Regulations*, Title 5, sections 11704, and portions of Section 11963.4(a)(3), related to charter school independent study pupil-to-teacher ratios to allow an increase from a 25:1 to a 27.5:1 pupil-to-teacher ratio at California Connections Academy Schools.
Waiver Number: 100-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

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ACTION: Member Straus moved to approve CDE's staff recommendation to approve the waiver with conditions for one year. Member Aschwanden seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Rucker recused herself from participating in the item and vote.

WC-5 General
Subject: Request by twenty local educational agencies to waive portions of the California *Education Code* sections 35256(c) and 35258 regarding the annual deadline to make the annual School Accountability Report Card available in hard copy and on the internet by February 1.
Waiver Numbers: Various – see list attached to Item WC-5.
(Recommended for APPROVAL)

ACTION: Member Rucker moved to approve CDE's staff recommendation to approve the waiver with conditions for one year. Member Straus seconded the motion. The board voted, by show of hands, 9-0 to approve the motion.

Item WC-12 Specific
Subject: Request by fourteen school districts under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session.
Waiver Number: Various – See attached table
(Recommended for APPROVAL)

ACTION: Member Chan moved to approve the waiver request of sixteen school districts to waive *Education Code* Section 49550, the State Meal Mandate during the summer school session. Member Straus seconded the motion. The board voted, by show of hands, 9-1 to approve the motion.

Yes Votes: Members Aschwanden, Chan, Cohn, Cushman, Kirst, Molina, Rucker, Straus, and Williams
No Vote: Member Ramos

Item W-1 General
Subject: Request by nine districts to waive portions of California *Education Code* Section 41376 (b) and (e), relating to class size penalties for grades four through eight. A district's current class size maximum is the greater of the 1964 statewide average of 29.9 to one or the district's 1964 average.
Waiver Numbers: 117-2-2011, 15-3-2011, 68-2-2011, 176-12-2010, 86-2-2011, 178-12-2010, 116-2-2011, 65-1-2011, and 133-2-2011

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(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Ramos moved to postpone action to approve the class size penalty waiver request by La Habra City Elementary School District. Member Molina seconded the motion. The Board voted by a show of hands, 9-0 to approve the motion. Member Rucker recused herself from participating in the item and vote.

ACTION: Member Aschwanden moved to approve the waiver request of the districts listed in Item W-1, with the exception of La Habra City Elementary School District, to waive the class size penalty in grades four through eight with the condition that the class size average is not greater than the new maximum average each district listed on Attachment 1. Member Chan seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Rucker recused herself from participating in the item and vote.

Item W-2 Specific
Subject: Request by four districts, under the authority of California *Education Code* Section 41382, to waive portions of *Education Code* sections 41376(a), (c), and (d) and 41378(a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32.
Waiver Numbers: 45-12-2010, 175-12-2010, 64-1-2011, and 119-2-2011
(Recommended for APPROVAL WITH CONDITIONS)

ACTION: Member Aschwanden moved to approve the request by four districts to waive portions of *Education Code* sections 41376(a), (c), and (d) and 41378(a) through (e), relating to class size penalties for kindergarten through grade three. For kindergarten, the overall class size average is 31 to one with no class larger than 33. For grades one through three, the overall class size average is 30 to one with no class larger than 32. Member Straus seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Rucker recused herself from participating in the item and vote.

Item W-5 General
Subject: Request by Lincoln Unified School District to waive California *Education Code* (*EC*) Section 44663(b) evaluation dates of June 30 and July 30 for non-instructional certificated employees so that Standardized Testing and Reporting test results for the year may be included in the evaluation criteria for those management employees.
Waiver Number: 82-2-2011
(Recommended for DENIAL)

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ACTION: Member Molina moved to approve request by Lincoln Unified School District to waive California *Education Code* (*EC*) Section 44663(b) evaluation dates of June 30 and July 30 for non-instructional certificated employees with the condition that the STAR data will not be used by the district as a basis for any adverse personnel actions. Member Straus seconded the motion. The board voted, by roll call, 6-4 to approve the motion.

Yes Votes: Members Chan, Cohn, Cushman, Molina, Straus, and Williams
No Votes: Members Aschwanden, Kirst, Ramos, and Rucker

Item W-10 General
Subject: Request by West Fresno Elementary School District to waive portions of California *Education Code* sections 35780 and 35782, which requires lapsation of a district with an average daily attendance of less than six.
Waiver Number: 33-3-2011
(Recommended for APPROVAL)

ACTION: Member Aschwanden moved to approve the waiver request. Member Williams seconded the motion. The board voted, by show of hands, 9-0 to approve the motion. Member Cohn was absent for the vote.

Item W-22 Specific
Subject: Request by San Diego Unified School District under authority of California *Education Code* Section 56101 for renewal of a "single child waiver" of *Education Code* Section 56366.1(a), the certification requirement for a nonpublic residential school, Judge Rotenberg Center, located in Canton, Massachusetts to allow one student (student number 010292026) to attend that school using special education funds. This request is also made to waive *Education Code* Section 56520(a)(3), *California Code of Regulations*, Title 5, Section 3052(a)(5), and Section 3052(l), to allow the use of aversive treatment for this student's self-injurious behavior.
Waiver Number: 14-3-2011
(Recommended for DENIAL)

ACTION: Member Aschwanden moved to approve the waiver request by San Diego Unified School District. Member Ramos seconded the motion. The board voted, by roll call, 7-2 to approve the motion. Member Cohn was absent for the vote.

Yes Votes: Members Aschwanden, Cushman, Kirst, Molina, Ramos, Straus, and Williams
No Votes: Members Chan and Rucker

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Item W-29 Specific
Subject: Request by Summerville Union High School District under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the Summer School Session for Summerville High School.
Waiver Number: 3-3-2011
(Recommended for DENIAL)

ACTION: Member Chan moved to deny the waiver request. Member Cushman seconded the motion. The district must serve a meal if it chooses to operate a summer program. The board voted, by show of hands, 10-0 to approve the motion.

Item W-30 Specific
Subject: Request by Temple City Unified School District under the authority of California *Education Code* Section 49548 to waive *Education Code* Section 49550, the State Meal Mandate during the Summer School Session for Union Hills Elementary School.
Waiver Number: 28-3-2011
(Recommended for DENIAL)

ACTION: Member Chan moved to approve CDE's staff recommendation to deny the waiver request. The district must serve a meal if it chooses to operate a summer program. Member Molina seconded the motion. The board voted, by show of hands, 10-0 to approve the motion.

*****ADJOURNMENT OF MEETING *****

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California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 16

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Review of Chronic Absence Data in Early Grades to Reduce the Number of California Dropouts	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) encourage districts to determine through an analysis of data if chronic absence is a problem facing some or all of their schools and use this information to develop strategies for districts and schools to improve school attendance and reduce California's dropout rate.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since October 1983, the SBE has adopted policies on school safety, discipline, and attendance. The current policy was adopted in March 2001 and supersedes a policy that was revised in September 1993. The current policy emphasizes that students cannot benefit fully from an educational program unless they attend regularly in an environment that is free from physical and psychological harm. The policy further states that the substantial benefits that students will derive from regular attendance in a safe and orderly school environment justify a high level of commitment of personnel and fiscal resources by the Legislature, Governor, the CDE, and local educational agencies. The March 2001 policy does not encourage monitoring chronic absences and early intervention as a strategy for achieving regular attendance but does address the importance of creating a school environment that is conducive to regular attendance. The current policy may be reviewed at http://www.cde.ca.gov/be/ms/po/policy01-02-mar2001.asp.

SUMMARY OF KEY ISSUES

In 1980, the Legislature added to the California *Education Code (EC)* Section 48341 which states that the State Superintendent of Public Instruction shall prepare and disseminate to school districts and county superintendents of schools information regarding effective practices to improve pupil attendance. This has been accomplished by the publication of the *School Attendance Review Board Handbook* which was last

SUMMARY OF KEY ISSUES (Cont.)

revised in 2009. School Attendance Review Boards (SARBs) were established at the county and district level in 1977 to review school attendance and develop new ways of coordinating school and community efforts to improve attendance and reduce the number of dropouts. While SARBs have often been effective in providing intensive guidance and coordinated community services to the students referred to them, SARBs frequently fail to analyze school attendance data to make strategic intervention decisions.

Recent research of chronic absence data reveals individual and school-level attendance problems which could inform SARB decisions and help districts take appropriate actions to alleviate the circumstances that contribute to poor school attendance and high dropout rates. An analysis of chronic absence rates in the early grades enables schools and districts to identify attendance problems early so that students can become proficient in reading and experience success in school. Missing school in the early grades is often unrecognized and has a severe impact on low-income children. Early intervention can prevent truancy problems in the upper grades and improve chances for high school graduation. High chronic absence rates in the early grades can be a critical challenge in both urban and rural communities and disproportionately affect children of color. Unfortunately, few districts in California know whether chronic absence is a problem in their schools since most only monitor truancy and average daily attendance (ADA), both of which can mask chronic absence. Truancy refers to three unexcused absences of more than 30 minutes for any reason in one school year while chronic absence refers to students with absences which add up to ten percent or more of the days of instruction in the school year. The definition of a truant is used to notify parents or guardians that there may be a violation of the compulsory education law. ADA refers to the percentage of attendance used to calculate a school district's apportionment from the state. Neither the truancy rate nor the rate of ADA indicate how many students have a serious attendance problem.

FISCAL ANALYSIS (AS APPROPRIATE)

Chronically absent students have a financial impact on their school districts. If the 5,421 students chronically absent in the 2009–10 school year had each attended six more days in the Oakland Unified School District (USD), Oakland USD would have received more than $1,147,000 in additional apportionment from ADA. In many cases, the costs associated with early identification and intervention would be covered by increases in ADA.

ATTACHMENT(S)

Attachment 1: Reducing Drop-Out: The Imperative for California To Address Chronic Absence Starting in the Early Grades (21 Pages). This attachment is available via the World Wide Web at http://www.attendanceworks.org/wordpress/wp-content/uploads/2011/06/State-Board-PowerPoint.pdf

ATTACHMENT(S) (Cont.)

A copy of the PowerPoint Reducing Drop-Out: The Imperative for California To Address Chronic Absence Starting in the Early Grades is also available for viewing at the State Board of Education office.

Attachment 2: The Attendance Imperative: Reducing Absences, Spurring Achievement (3 Pages). This attachment is available via the World Wide Web at http://www.attendanceworks.org/wordpress/wp-content/uploads/2011/05/California-Policy-Handout_5-13.pdf. A copy of the handout The Attendance Imperative: Reducing Absences, Spurring Achievement is also available for viewing at the State Board of Education office.

Reducing Drop-Out:

The Imperative for California To Address Chronic Absence Starting in the Early Grades

Presentation to California State Board of Education

Hedy Chang
Director, Attendance Works
Co-Chair, Chronic Absence & Attendance Partnership

Attendance Works
Advancing Student Success By Reducing Chronic Absence

The Chronic Absence and Attendance Partnership

Defining Key Terms

- **Average Daily Attendance**: The percentage of enrolled students who attend school each day.
- **Satisfactory Attendance:** Missing 5% or less of school in an academic year.
- **Chronic Absence:** Missing 10% or more of school in an academic year for any reason—excused or unexcused.
- **Severe Chronic Absence:** Missing 20% or more days of school per year – approximately two months of school.
- **Truancy:** Typically refers *only* to unexcused absences and is defined by each state. In CA, it is missing 3 days of school without a valid excuse, or being late to class 3 times without a valid excuse.
- **Chronic Truancy:** As of last year, chronic truancy is defined as missing 10% or more of school due to ***only*** unexcused absences.

Myths to Dispel

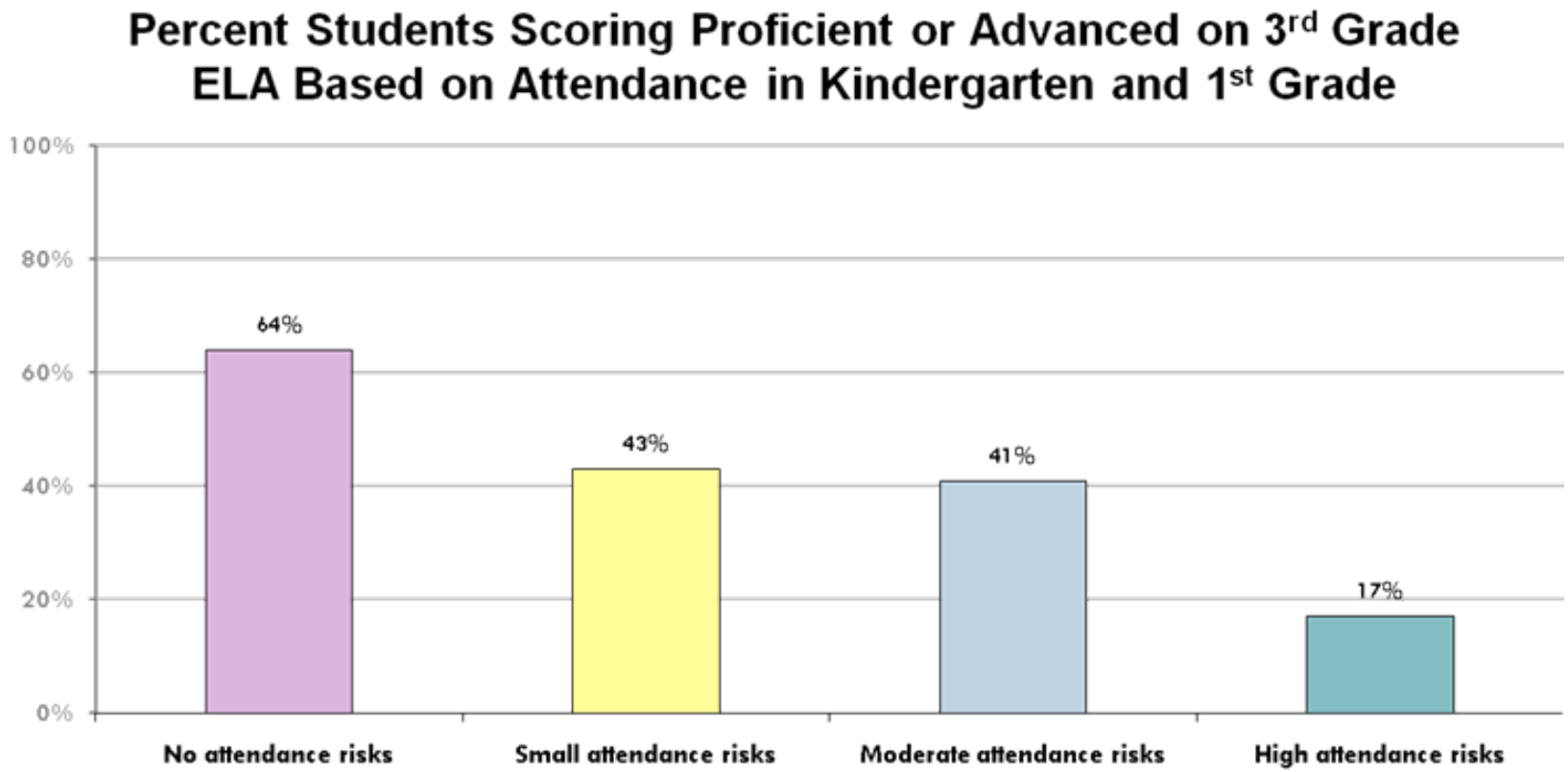
MYTH 1:
Attendance in Kindergarten doesn't really matter for academic success.

MYTH 2:
Missing school isn't a big problem until middle or high school.

MYTH 3:
Most educators monitor chronic absence.

MYTH 4:
Since attendance is a family responsibility, we cannot do anything to address chronic absence.

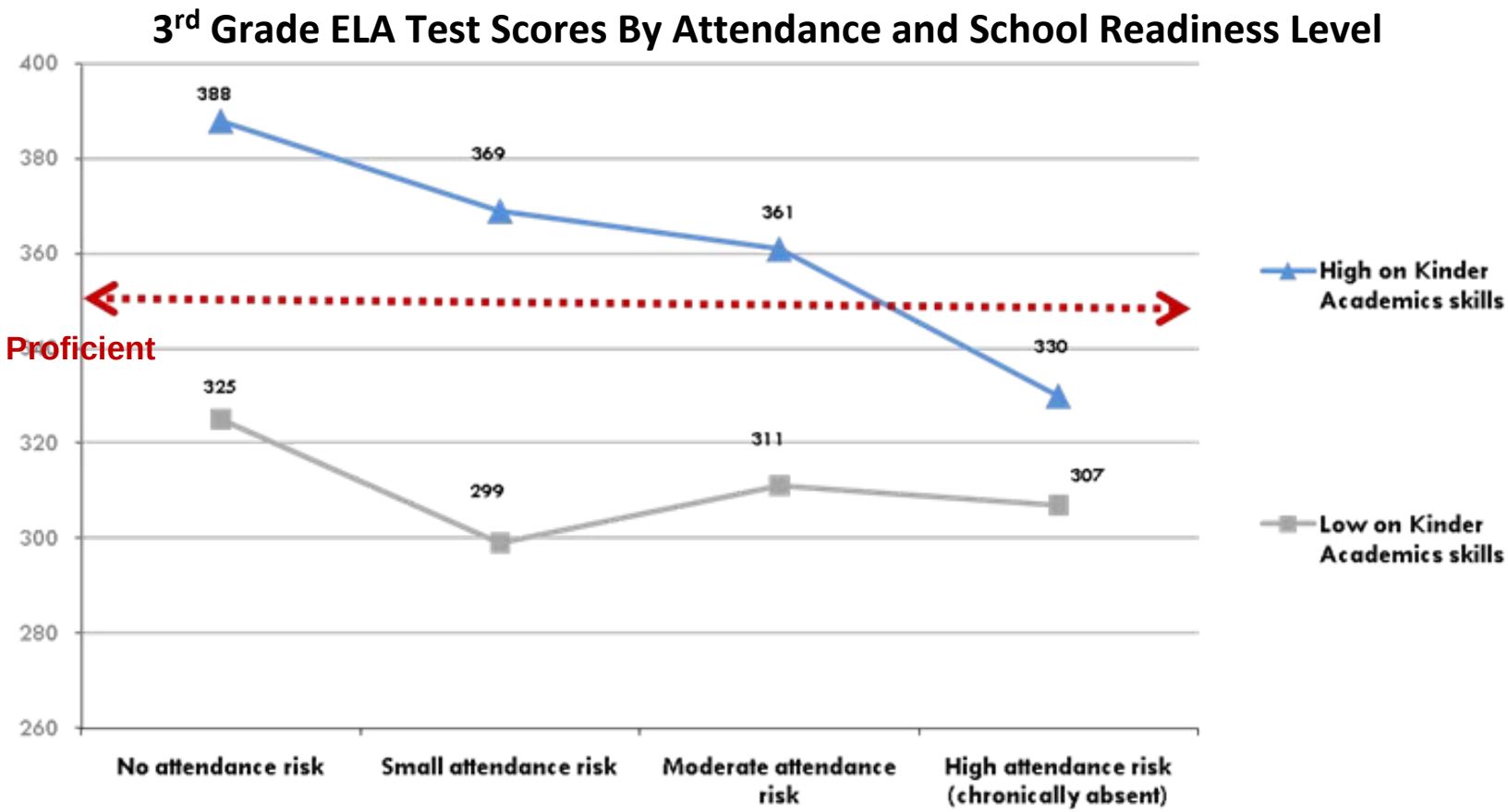
Students Chronically Absent in Kindergarten & 1st Grade Much Less Likely to Read Proficiently in 3rd Grade



No risk	Missed less than 5% of school in K & 1st t
Small risk	Missed 5-9% of days in both K & 1st
Moderate risk	5-9% of days absent in 1 year &10 % in 1 year
High risk	Missed 10% or more in K & 1st

Source: Applied Survey Research & Attendance Works (April 2011)

School Readiness & Early Attendance Are Critical to Early School Success



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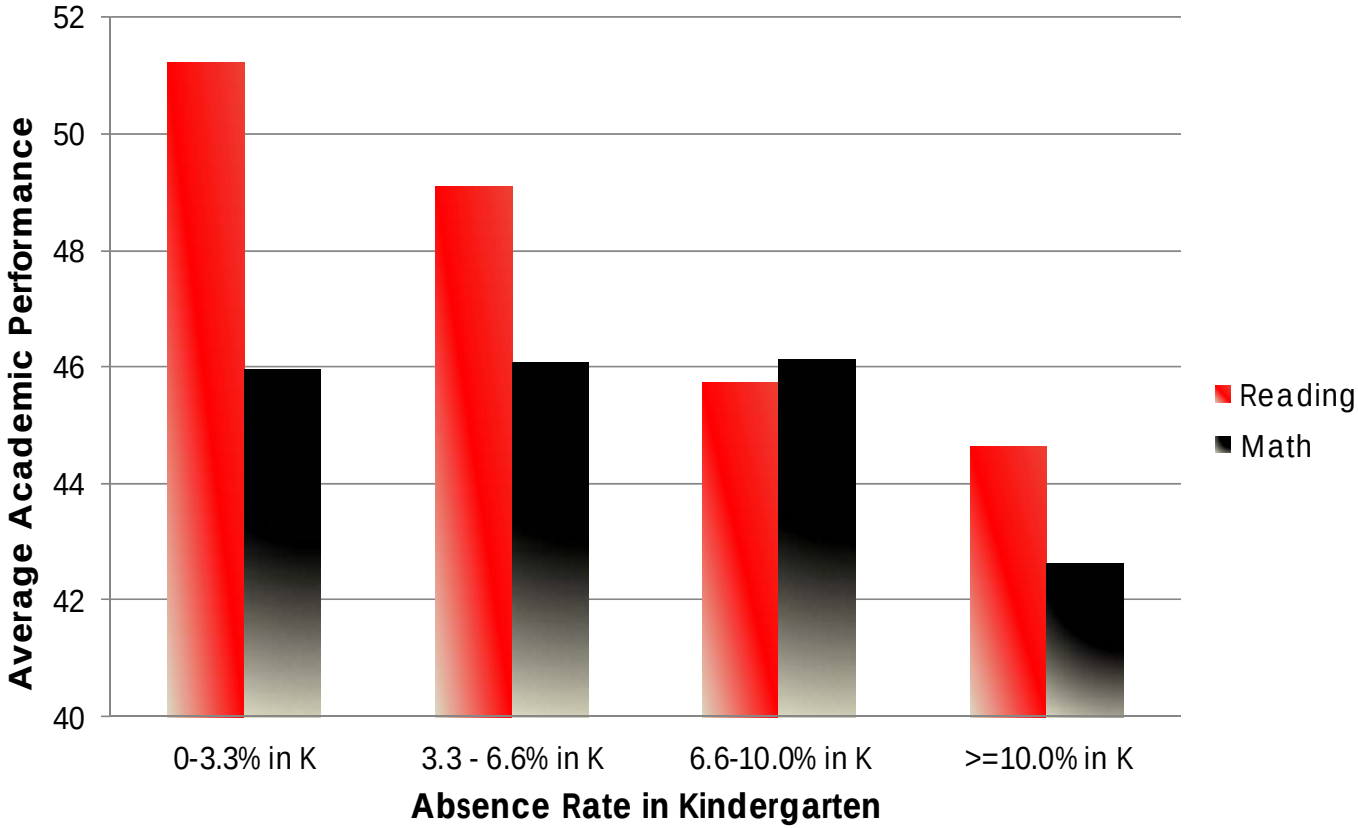
Small risk	Missed 5-9% of days in both K & 1st
Moderate risk	5-9% of days absent in 1 year &10 % in 1 year
High risk	Missed 10% or more in K & 1st

Source: Applied Survey Research & Attendance Works (April 2011)

The Long-term impact of Chronic Kindergarten Absence Is Most Troubling for Poor Children

5th Grade Math and Reading Performance By K Attendance



Source: ECLS-K data analyzed by National Center for Children in Poverty (NCCP)
Note: Average academic performance reflects results of direct cognitive assessments conducted for ECLS-K.

Chronic Absence is Especially Challenging for Low-Income Children

- Kindergarten and 1st grade can reduce the achievement gap for low-income vs. middle class students, but only if they attend school regularly. (Ready 2010)

- The negative impact of absences on literacy is **75% larger** for low-income children whose families often lack resources to make up lost time on task. (Ready 2010)

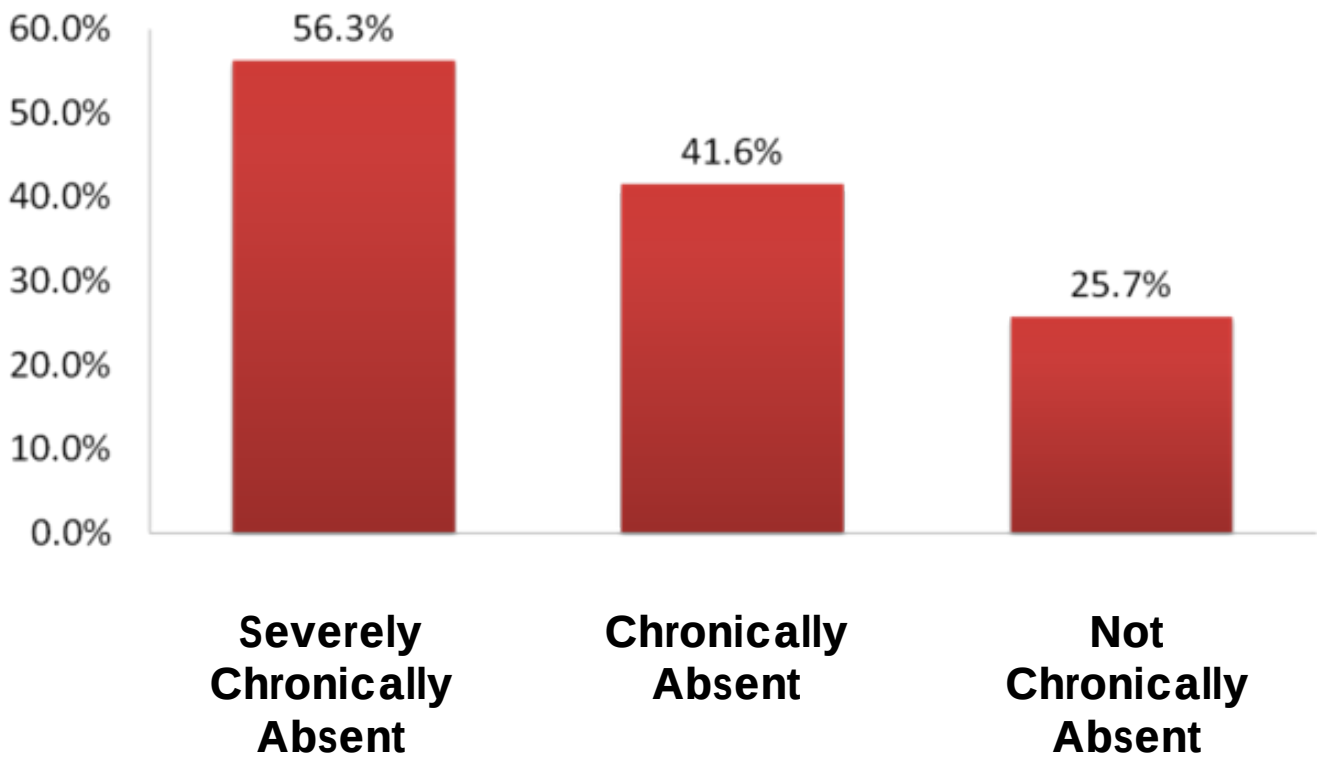
- Only **17% of low-income children** in the United States read proficiently by 4th grade. (NAEP 2009)

Chronic Absence is Especially Challenging for Low-Income Children

- Poor children are **4x** more likely to be chronically absent in K than their highest income peers. (Romero & Lee 2007)
- Children in poverty are more likely to lack basic health and safety supports that ensure a child is more likely to get to school. They often face:
  - **Unstable Housing**
  - **Limited Access to Health Care**
  - **Poor Transportation**
  - **Inadequate Food and Clothing**
  - **Lack of Safe Paths to School Due to Neighborhood Violence**
  - **Chaotic Schools with Poor Quality Programs, etc.**

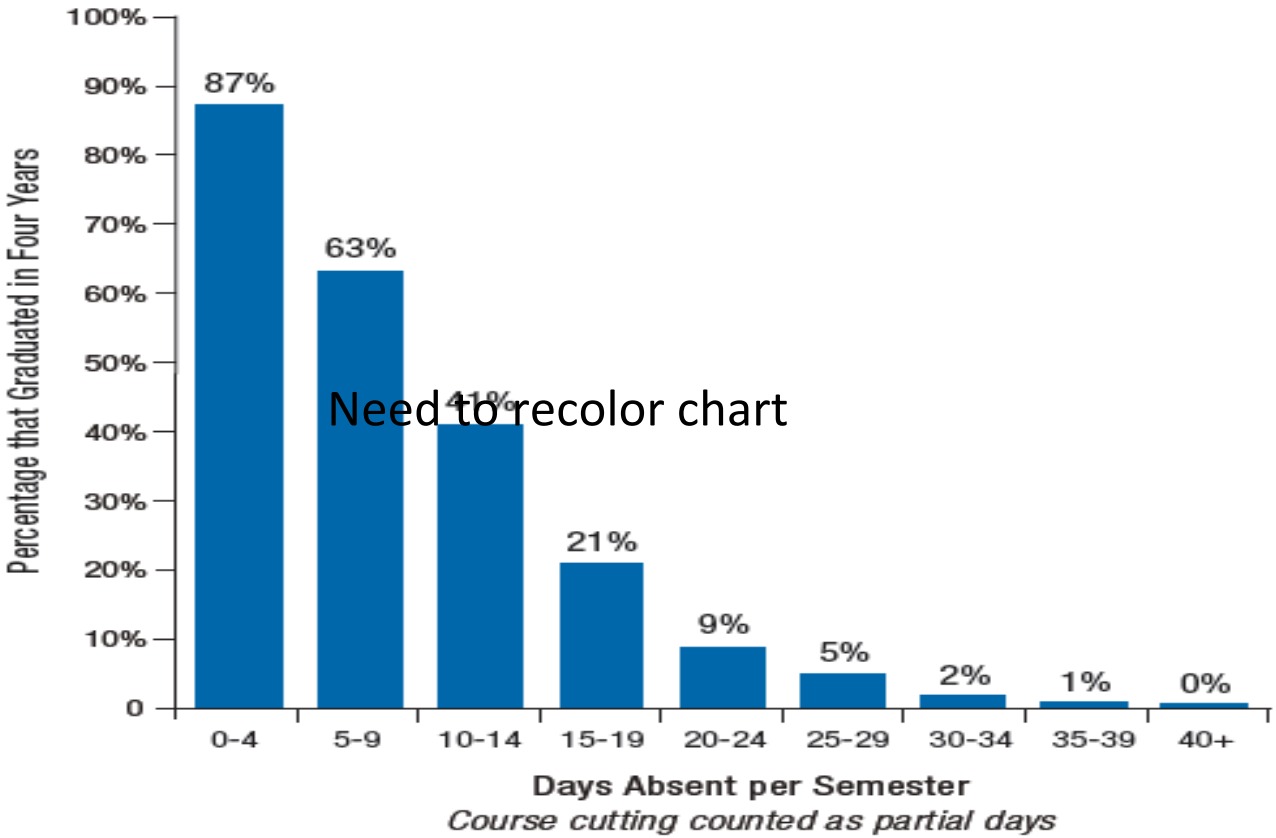
Chronically Absent 6th Graders Have Lower Graduation Rates

Dropout Rates by Sixth Grade Attendance
(Baltimore City Public Schools, 1990-2000 Sixth Grade Cohort)



Source: Baltimore Education Research Consortium SY 2009-2010

9th Grade Attendance Predicts Graduation for Students of All Economic Backgrounds



Need to recolor chart

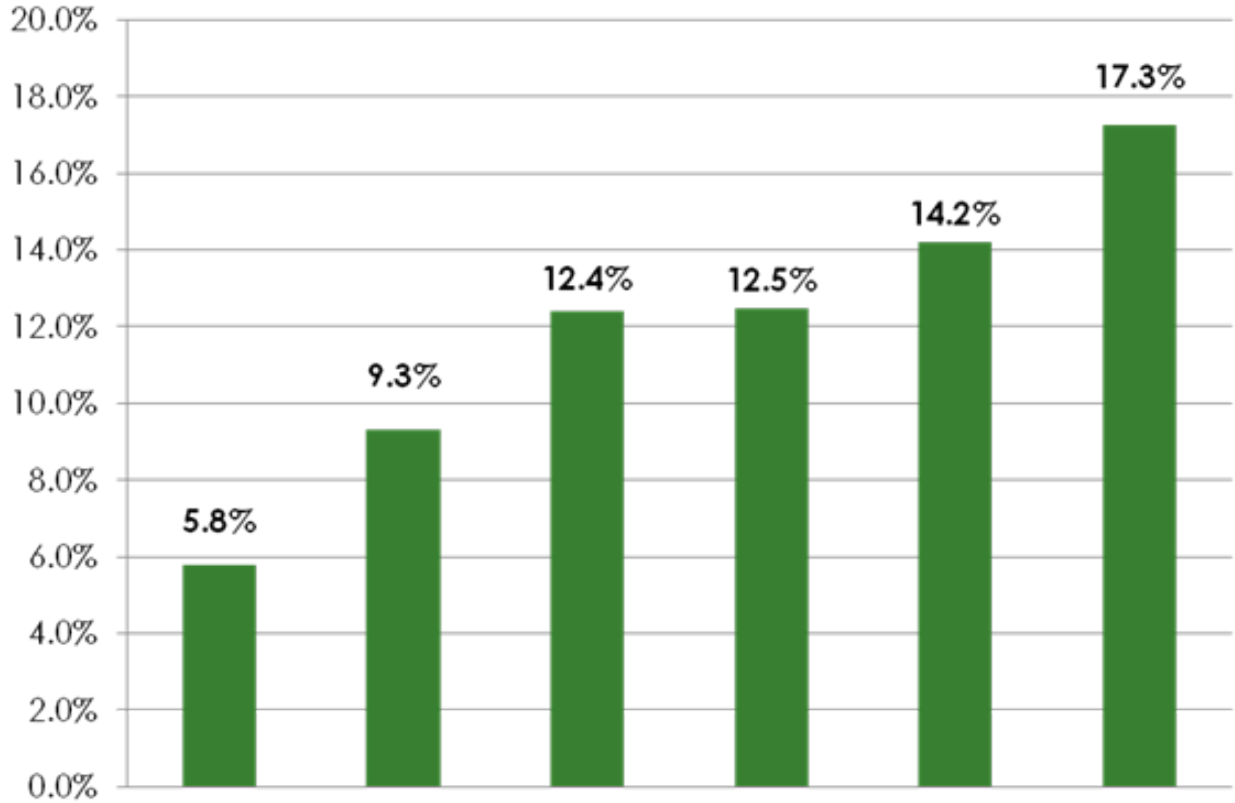
Note: This Chicago study found attendance was a stronger graduation predictor than 8th grade test scores.

Source: Allensworth & Easton, *What Matters for Staying On-Track and Graduating in Chicago Public Schools*, Consortium on Chicago School Research at U of C, July 2007

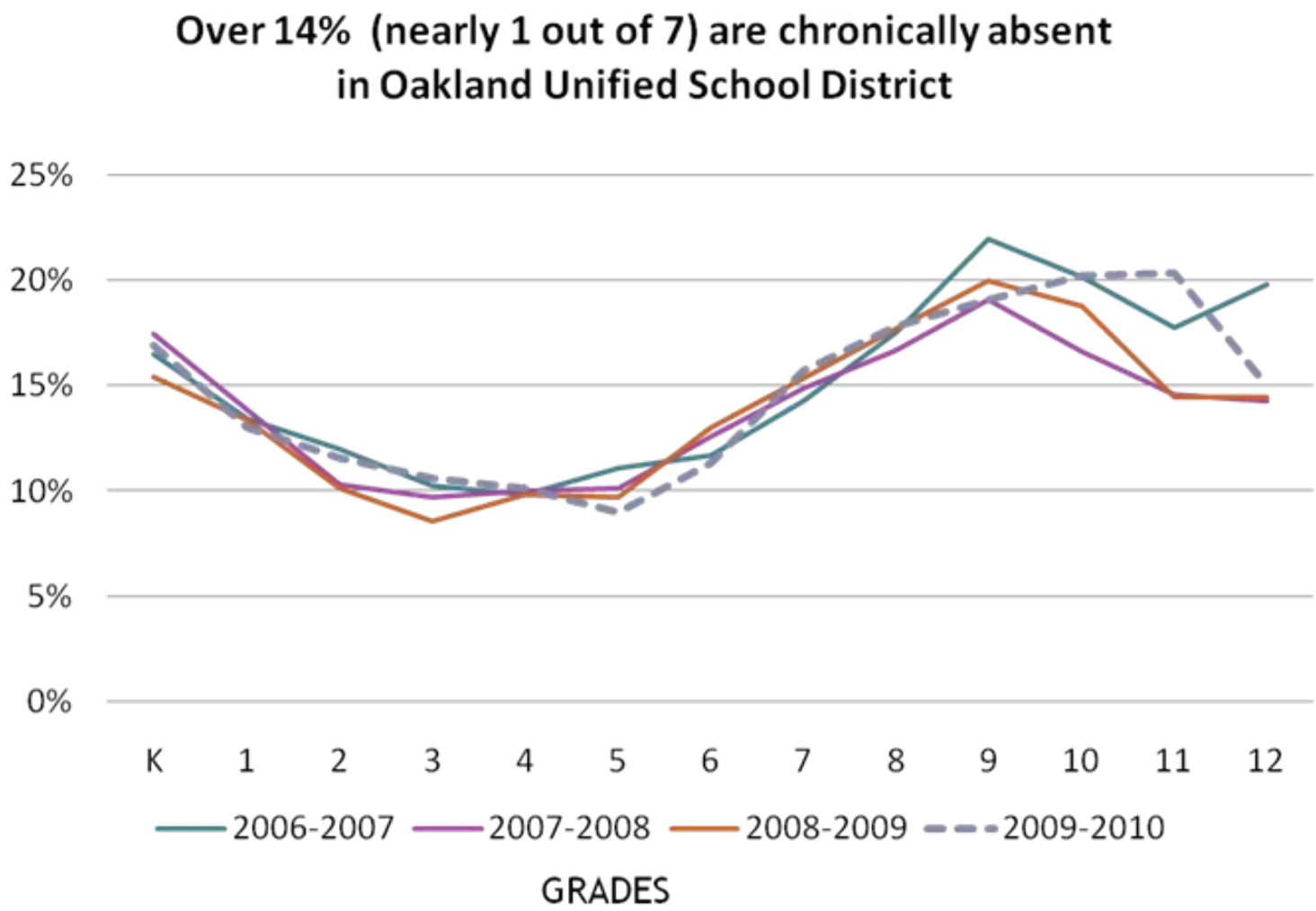
Moving into Action Requires Knowing If Chronic Absence is a Problem

Most Schools Only Track Average Daily Attendance and Truancy. Both Can Mask Chronic Absence.

Variation in Chronic Absence for Six Schools with 95% ADA in Oakland, CA

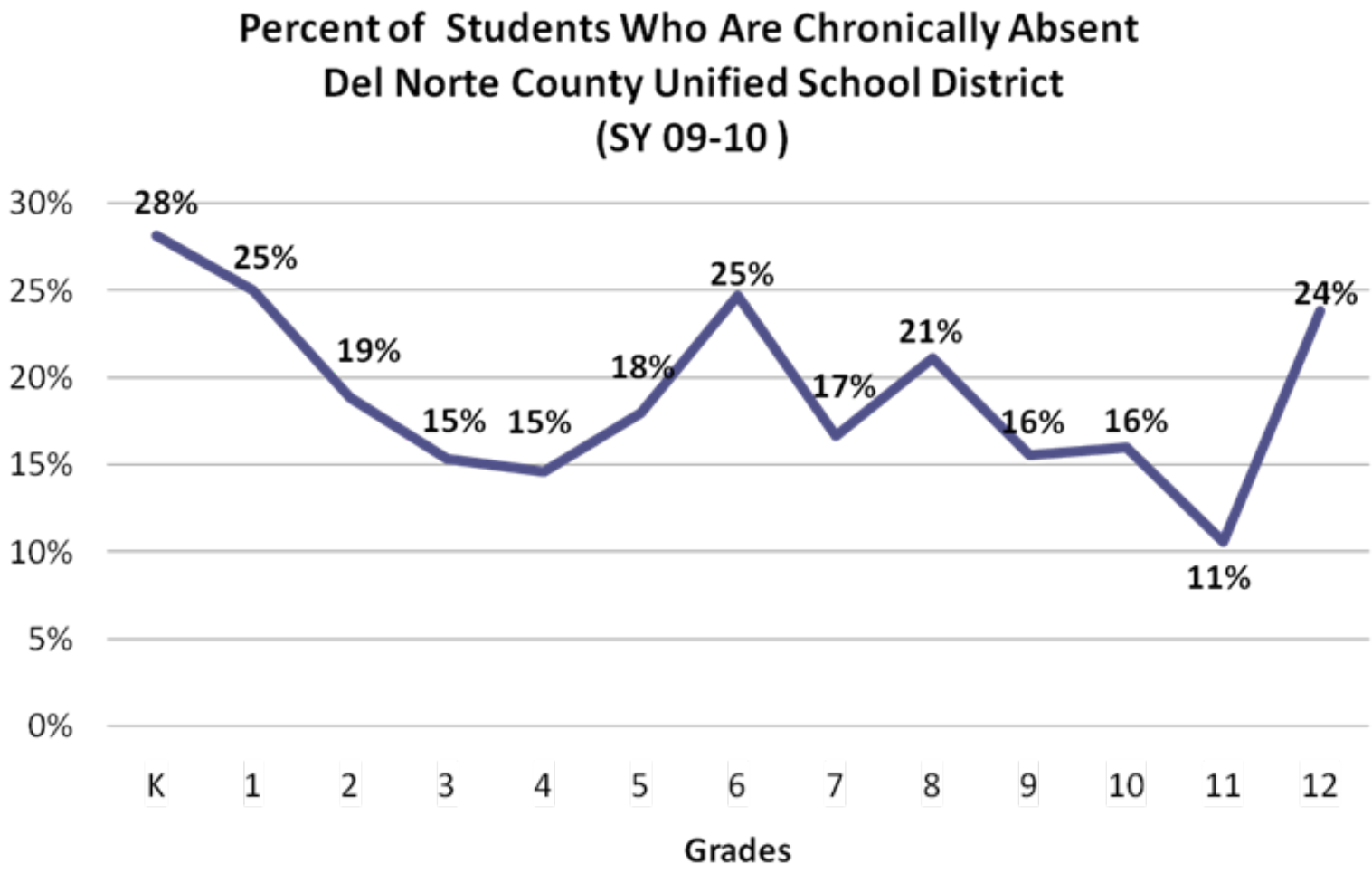


Emerging Data Shows High Levels



If the 5,421 students chronically absent in 09/10 had each attended 6 more days, OUSD would have received more than $1,147,000 in additional ADA.

Chronic Absence Found In Rural Not Just Urban Communities



1 out of 6 (16%) students were chronically absent.

Data is Needed for Identifying Programmatic Solutions

- Chronic absence data (as well as other attendance measures) should be examined by classroom, grade, school, neighborhood or sub-population.
- If chronic absence is unusually high for a particular group of students, explore what might be common issues (unreliable transportation, community violence, asthma and other chronic diseases, poor access to health care, unnecessary suspension for non-violent offenses, lack of engaging curriculum, child care or afterschool programming, foreclosures, etc.)
- If chronic absence is unusually low for a high risk population, find out what they are doing that works.

Variation Helps Identify Good Practice and Need for Intervention

Chronic Absence Levels Among Oakland Public Schools

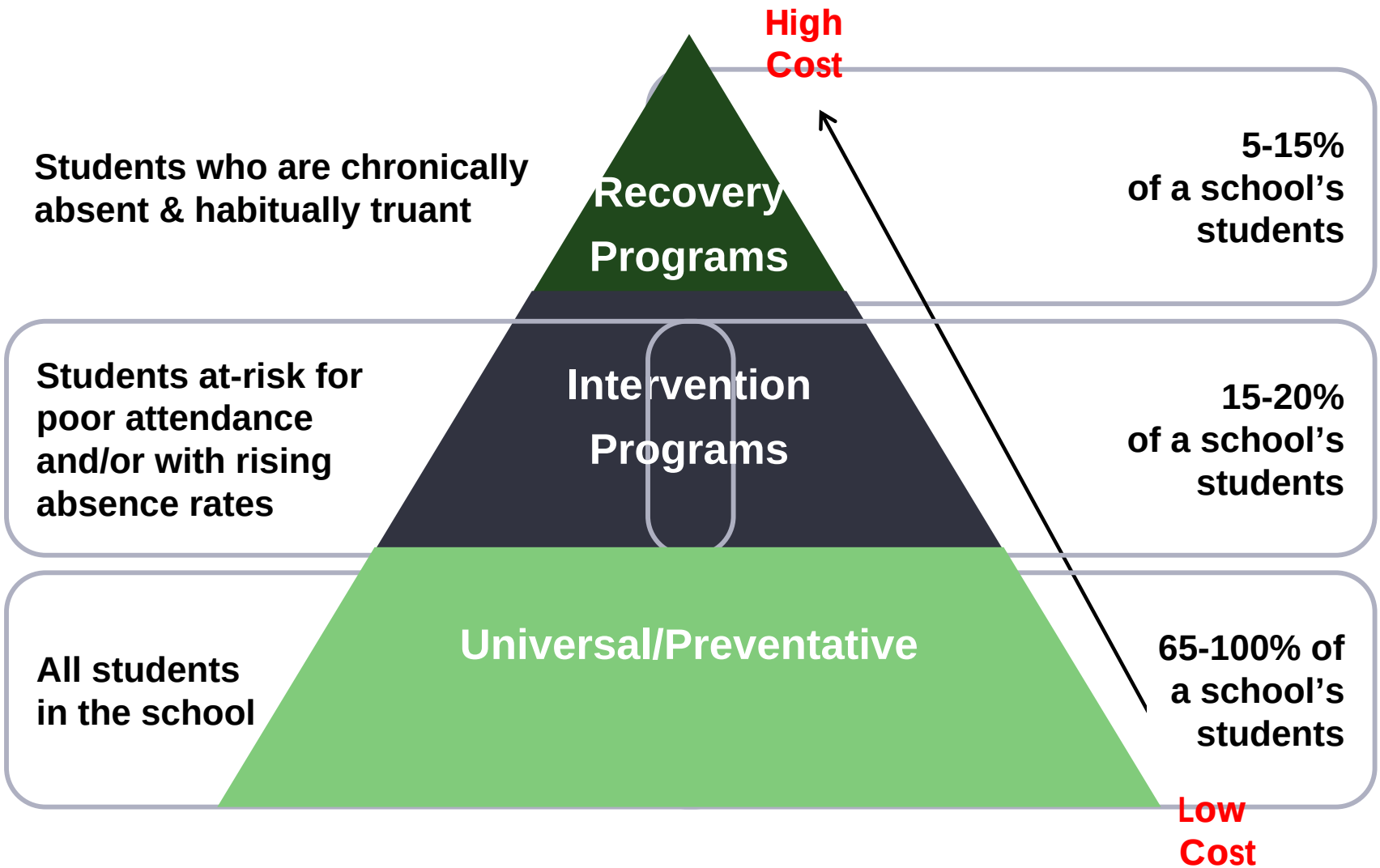
	Elementary	Middle	High School
# Schools with 0%-5% Chronic Absence	9	0	0
# Schools with 5.1%-10% Chronic Absence	17	4	1
# Schools with 10.1%-20% Chronic Absence	25	8	6
# Schools with >20.1% Chronic Absence	9	4	9
Total No. Schools	60	16	16
Highest % of Chronic Absence	31.5%	32.8%	42.1%
Lowest % of Chronic Absence	0.3%	6.9%	7.9%
Median	12.7%	14.9%	21.0%
Mean	11.9%	15.6%	22.4%

Schools + Communities CAN Make a Difference

Characteristics of Successful Attendance Initiatives

- ❑Partner with community agencies to help families carry out their responsibility to get children to school.
- ❑Make attendance a priority, set targets & monitor progress over time.
- ❑Engage parents and students in identifying and addressing school, family, and community issues that contribute to chronic absence.
- ❑Clearly communicate expectations for attendance to students and families.
- ❑Begin early, ideally in Pre-K.
- ❑Combine targeted interventions with universal strategies that nurture an engaged learning environment, build a culture of attendance and ensure physical health and safety at school.
- ❑Offer positive supports before punitive action.

Increased Attendance Involves a 3-Tiered Approach that Fits with Most Reform Efforts



Districts Can Provide:

1. **Leadership.** Set attendance goals and district policy. (Note: CSBA has sample attendance policy.)
2. **Data.** Ensure attendance data is accurately entered and reports on attendance including chronic absence are widely available & regularly reviewed.
3. **Attendance Incentives.** Promote effective school wide approaches to recognizing good and improved attendance.
4. **Parent Education & Mutual Support.** Invest in educating parents about the importance of attendance.
5. **Individual and Programmatic Intervention.** Ensure individual intervention & outreach combined with systemic problem solving.
6. **Community Partnerships.** Help schools identify & forge partnerships with community agencies that can help address barriers to attendance.
7. **Peer Learning & Professional Development:** Create opportunities for school staff to learn about the importance of attendance and share effective strategies for improving student attendance.

CDE Can Assist Through:

1. **Data Collection.** Add attendance to the state longitudinal student data base. CA is one of only 5 state without attendance in its longitudinal student database.
2. **Technical Support.** Strengthen capacity of districts to track and calculate chronic absence and use poor attendance , combined with other early warning signs to trigger individual and programmatic intervention.
3. **Peer Learning & Recognition:** Identify and create opportunities to share promising and effective strategies across districts.
4. **Accountability.** Encourage county offices of education and districts to include chronic absence in data reports and help schools address chronic absence in their annual improvement plans
5. **Reporting.** Publish reports that feature multiple attendance measures and show rates by district,
school, grade and student sub-populations.

Why Attendance, Starting Early Matters

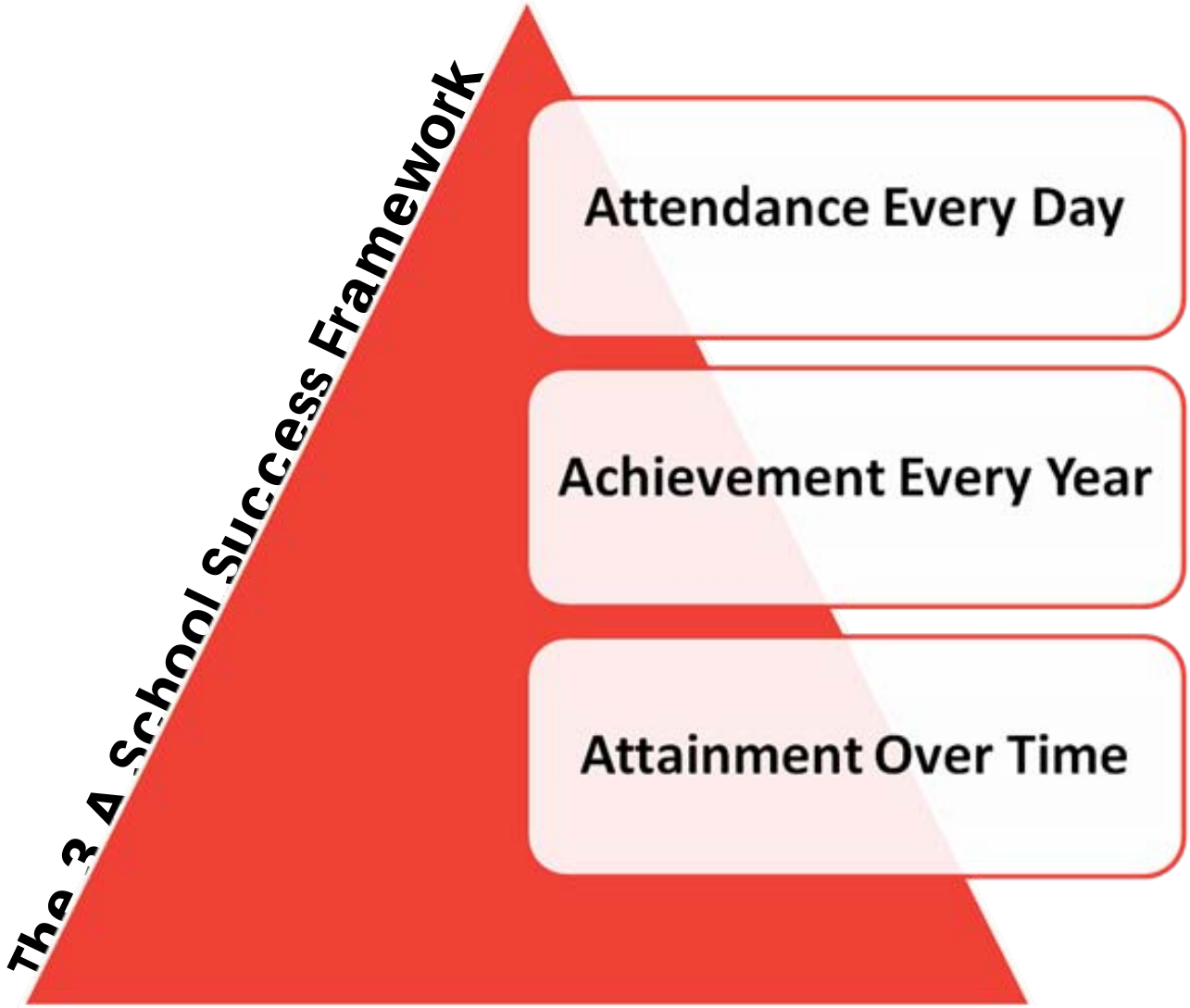
Increased Student Absences are:

- An early warning sign of potential drop-outs
- Predictive of academic failure
- A flag for student disengagement and struggling schools
- Costly for each school, district and surrounding community

Measures of Attendance are:

- Available
- Easily understood
- Predictors of failure in school
- Indicators of effective engagement strategies by educators
- Shared outcomes that facilitate collaboration

An Antidote to Drop-Out



Developed by Annie E. Casey Foundation & America's Promise Alliance
For more info go to www.americaspromise.org/parentengagement

The Attendance Imperative: Reducing Absences, Spurring Achievement

California has the chance to develop an early warning system that could help close the achievement gap, reduce the high school dropout rate and address local budget challenges. Crucial to the system is attendance data—information that is already collected and stored but seldom used in ways that can improve student achievement. California is one of five states that does not include attendance data in its longitudinal student data system. A new state law could change that, but it relies on necessary funds and on local districts sharing their data with the state. Several districts have already started tracking chronic absence, a broader measure than truancy because it includes excused absences.

What we know:

✓ **Chronic absence can reach high levels in urban *and* rural districts.**
An Oakland analysis found that nearly one in seven students missed 10 percent of the 2009-2010 school year. In rural Del Norte, the figure was one in six the same year.

✓ **Chronic absence starts early.**
In Oakland, 17 percent of kindergarten students were chronically absent. In Los Angeles, which tracks students missing 9 percent of school days, the kindergarten absentee rate (22.6 percent) was essentially the same as the 9th grade absentee rate (22.7 percent) in 2009-2010.

✓ **Chronic absence disproportionately affects poor and minority students.**
Nationally, low-income children are four times more likely to be chronically absent than their peers. Oakland's African American elementary students are three times more likely than white students and twice as likely as Latinos to miss 10 percent of school days. In LAUSD, one in four black and one in five Native American students misses too much school. Absences are slightly worse for Latino versus white students.

What California Can Do

Chronic absence, defined as missing 10 percent or more of the school year, afflicts California districts large and small, rural and urban. It affects kindergartners as well as high school students. And it pulls down student achievement. The good news is that chronic absence can be turned around when schools and communities work together. Attendance often improves quickly when schools: track absences carefully; take comprehensive approaches involving students, families and community agencies; examine the barriers that keep children from coming to school; and offer safe, inviting and academically engaging campuses for students to learn.

Excessive absences reflect more than simply skipping school. School attendance drops when families lack the financial resources to meet their basic needs for shelter, food, clothing and transportation. Health problems such as asthma and poor dental care, can keep kids from attending regularly. Safety concerns, including neighborhood violence and schoolyard bullying, also keep students home. And a school climate that doesn't engage students in learning or convey the importance of attendance can contribute.

California must do more to track this early warning sign, starting in the early grades, and to encourage school districts to intervene so they can change the trajectory for students and schools at risk. The state's efforts to improve troubled schools will do little good if students don't show up for class.

State Policy Opportunities

The California Department of Education (CDE) is in a unique position to ensure this overlooked but critically important indicator is addressed in policy and practice. A first key step is to champion SB 1357, which was signed into law in September 2010. The law defines chronic absence as missing 10 percent of school for any reason. It requires CDE to update the database to accept attendance information, contingent upon federal funds. And it encourages districts to submit their data in return for reports on chronic absence. It makes sense for CALPADS to collect the data because:

- ✓ District information systems frequently roll over attendance data each summer and do not make longitudinal information accessible.
- ✓ Chronically absent students are often highly mobile. The state can help provide a fuller history and develop support strategies for vulnerable children.
- ✓ States can provide dropout early warning systems based on attendance far cheaper and more equitably than districts.
- ✓ States can hold districts and schools accountable for high levels of chronic absence.

Local Policy Opportunities

In the meantime, local school districts do not need to wait to take action. The San Francisco School Board, for instance, approved a resolution in 2010 that directed the superintendent to track elementary absences and work with the lowest performing schools to improve attendances. The California School Boards Association has developed a sample policy for chronic absence and truancy. As districts, such as Oakland and Del Norte, have revealed, a helpful first step is analyzing data to identify which schools and students are affected by chronic absence. Oakland's effort includes maps showing the census tracts most affected by chronic absence. Districts can also use the School Attendance Review Board process to begin reporting on attendance data.

Nonprofit groups can also make a difference: When The Children's Initiative began tracking attendance in its San Diego County report card, the nonprofit prompted a dialogue among educators, parents and students about why absentee rates were so high. It has also helped several school districts find ways to improve school attendance.

✓ **Chronic absence can drag down student achievement.**
Research shows that for poor children, chronic absence in kindergarten translates into lower 5th grade achievement. By 6th grade, it begins to predict high school dropout rates for all students. By 9th grade, missing 20 percent of school can be a better predictor of dropout than 8th-grade test scores.

✓ **Chronic absence can erode school readiness gains.**
A new analysis by Applied Survey Research and Attendance Works demonstrates that the effect of school readiness skills (shown in past studies to increase through preschool participation) can fade by 3rd grade for students who are chronically absent in kindergarten and 1st grade.

✓ **Chronic absence is costing school districts state funding.**
If the 5,421 Oakland students who were chronically absent in the 2009-10 school year had each attended six more days, OUSD would have received more than $1.1 million in additional state ADA aid.

Going Forward

- ✓ CDE and the State Superintendent should set a high priority on addressing chronic absence starting in the early grades as a strategy to reduce dropout rates and narrow the achievement gap.
- ✓ Local and state policymakers should pursue better practice and policy to ensure that chronic absence is addressed early and often in a child's school career.
- ✓ All stakeholders should work to implement SB1357 so that attendance data is added to CALPADS.

For materials and PowerPoint presentations from the policy forum go to
http://www.attendanceworks.org/policy-advocacy/state/california/

To view the California School Board Association brief and sample policy on chronic absence go to
http://www.csba.org/EducationIssues/EducationIssues/~/link.aspx?_id=1453FFA807D64B2EBE30A75E71762A09&_z=z

Attendance Works *is a national and state initiative based in San Francisco that aims to ensure every district and community in every state not only tracks chronic absence data for individual students but also intervenes to help those children and schools. Attendance Works would like to express its deep appreciation to the Annie E. Casey Foundation and the W.K. Kellogg Foundation for investing in our development and launch as a national initiative. In addition, we thank The California Endowment and San Francisco Foundation for supporting our campaign in California.*

Chronic Absence and Attendance Partnership *works to improve the outcomes of students at risk of poor academic performance and dropping out of school. CAAP seeks to raise awareness, promote the collection and use of data on attendance, support the development of early warning systems and increase the use of chronic absence data to help schools and community agencies (including health service, family resource centers, afterschool, and early childhood programs, etc.) coordinate their resources to improve outcomes for students and their families.*

CAAP members include: *Attendance Works, Bay Area Council; California Family Resource Association; California School Health Centers Association; California State PTA; The Children's Initiative; Children Now; Fight Crime: Invest in Kids – California; League of Women Voters of California; Partnership for Children and Youth; PICO California; Public Advocates; and The Education Trust – West.*

Attendance Works
Advancing Student Success By Reducing Chronic Absence

The Chronic Absence and Attendance Partnership

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 17

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Proposed Formation of the Bonsall Unified School District from the Bonsall Union School District and that Portion of the Fallbrook Union High School District in San Diego County.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) (1) consider the merits of this unification proposal as the first step of the decision process; and (2), if it determines the proposal would justify approval, to either conduct or secure a contract with another entity to conduct an Initial Study pursuant to California Environmental Quality Act (CEQA) guidelines and, if warranted by the Initial Study, to either conduct or secure a contract with another entity to conduct a full environmental impact report (EIR) in order to take final action to approve the proposal (*Public Resources Code* [*PRC*] Section 21000 et seq.). This recommendation is based on CDE's analysis that finds the unification proposal substantially meets all nine required conditions (California *Education Code* [*EC*] Section 35753[a]).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The SBE has not previously considered a proposal to form a new unified school district from territory of the Bonsall Union School District (SD).

SUMMARY OF KEY ISSUES

The action to unify the area of the Bonsall Union SD that is within the Fallbrook Union HSD was initiated in May 2007 upon the filing, with the San Diego County Superintendent of Schools, of a petition signed by at least 25 percent of the registered voters residing in the territory proposed to be reorganized (California *Education Code* [*EC*] Section 35700[a]).

The San Diego County Committee on School District Organization (County Committee) conducted a public hearing August 6, 2007, at which the Bonsall Union SD expressed support for the proposed unification, while the Fallbrook Union High School District (HSD) expressed opposition. The Fallbrook Union Elementary SD and the Vallecitos

SUMMARY OF KEY ISSUES (Cont.)

SD—remaining component districts of the Fallbrook Union HSD—did not take a position of support or opposition regarding the proposed reorganization.

At its December 3, 2007, meeting, the County Committee voted that the unification petition does not substantially meet two of the nine conditions required by *EC* Section 35753(a):

- "Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization." The County Committee expressed concerns that State Allocation Board funding for the Fallbrook Union HSD might be reduced because of duplicative seats and that construction costs for a new Fallbrook high school might exceed the district's bonding capacity.

- "The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization." The County Committee's Feasibility Study indicated that both districts have sound fiscal management and would likely survive the reorganization, but it expressed concerns regarding the ability of the new district to offer salaries comparable to those offered by the Fallbrook Union HSD since the revenue limit for the proposed Bonsall Unified School District would be a blended revenue limit without any increase for salary or benefit differences.

The County Committee voted 3-2 to recommend approval of the unification proposal although it determined the proposal does not comply with the two conditions above.

While the CDE concurs with the County Committee's vote recommending approval (although the County Committee determined all conditions are not met), CDE's recommendation is based on its analysis (Attachment 1) that finds the proposal meets all nine conditions of *EC* Section 35753(a). Specifically, on the facilities cost and financial conditions the County Committee found not met, the CDE noted the following in its analysis:

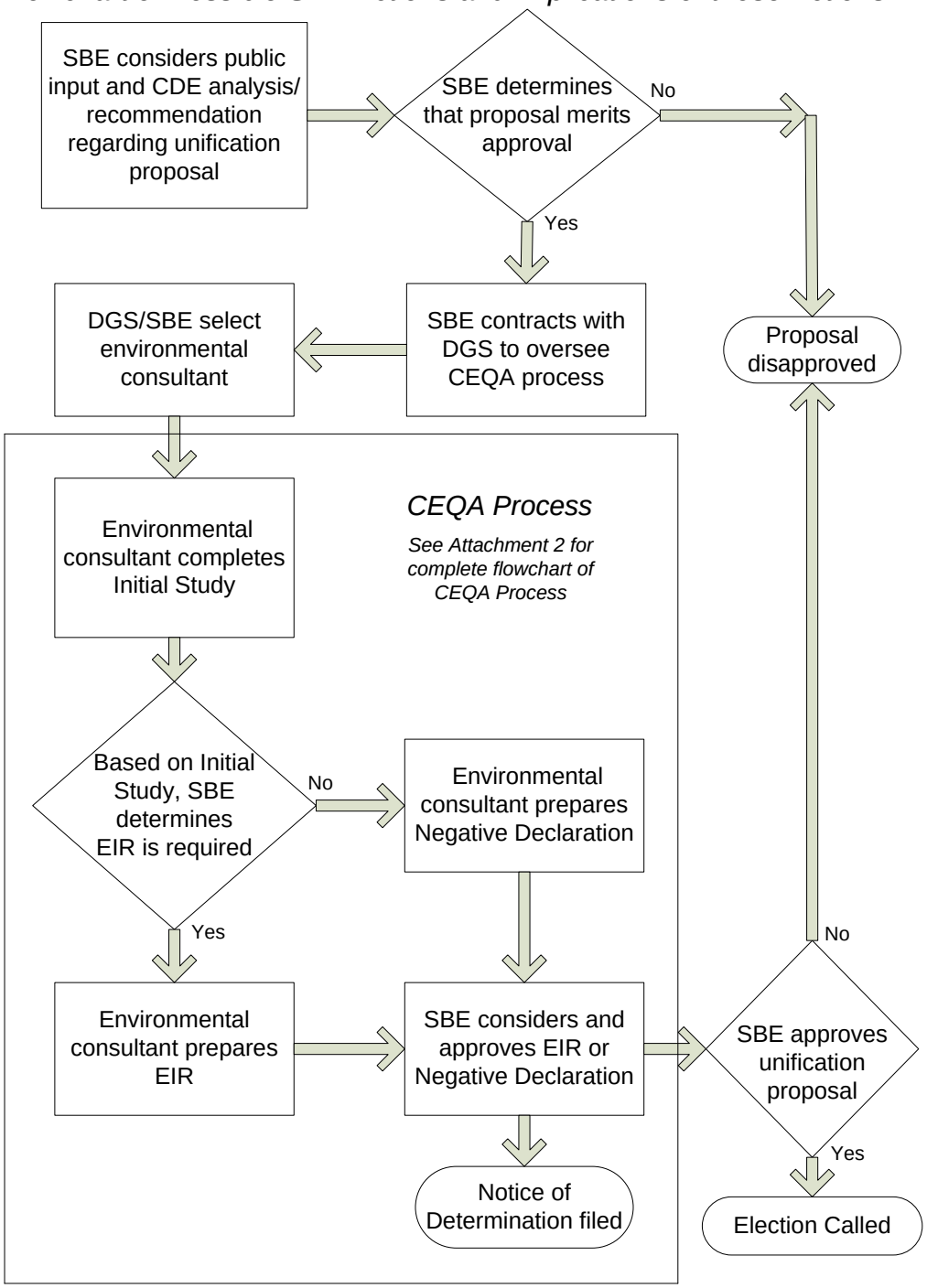
- CDE's School Facilities Planning Division in its report (Attachment 4) points out that the Fallbrook Union HSD could adjust its inventory of 33 portables, which would eliminate duplicative seats, provide the additional benefit of reclaiming field and hard-court areas, and reduce the size and scope of any new high school.

- The CDE analysis notes that the disparity in salaries between the districts has narrowed, both districts have 2010–11 reserve levels well above the required 3 percent (Fallbrook Union HSD, 9 percent; Bonsall Union SD, 28 percent), and the decrease in Fallbrook Union HSD's revenue due to the loss of approximately 526 students as a result of the reorganization will be gradual, allowing the district sufficient adjustment time.

SUMMARY OF KEY ISSUES (Cont.)

The SBE is charged with taking certain actions regarding the proposal to form a new unified school district. The current actions (and implications of those actions) available to the SBE are summarized in the following flowchart and are described in greater detail in the subsequent pages of this item. Cost implications for the SBE are specifically addressed on page 5 of this item.

Flowchart of Possible SBE Actions and Implications of those Actions



SUMMARY OF KEY ISSUES (Cont.)

The first decision that the SBE must make is related to the merits of the unification proposal. Based on the CDE analysis and recommendation (Attachment 1) and other information available to the SBE (including public comment), the SBE must decide whether the unification proposal merits further consideration and possible approval. The SBE can disapprove the unification proposal if it determines that the proposal does not merit further consideration for any reason. There are no further steps necessary upon disapproval.

Although the SBE can disapprove the unification proposal now, it is unable to formally approve the proposal at this point even if the SBE determines that the proposal merits approval. In *Fullerton Joint Union High School District v. State Board of Education* (1982), 32 Cal. 3d 779, 187 Cal. Rptr. 398 (*Fullerton*), the Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of CEQA and that the SBE, as the state agency making the ultimate decision prior to the election for the formation of a new school district, is the lead agency. As such, the SBE is required to consider the impact of reorganization on the environment *prior* to approving the formation of the new district, particularly where the reorganization will require construction of a new school (as in *Fullerton* and, as in this case, construction of a new high school—*see* Attachment 1, page 20). Thus, the SBE must address the CEQA issues of the proposal prior to formally approving the unification. The SBE is not required to address CEQA issues in order to disapprove the proposal.

Since *Fullerton*, the CDE has provided the fiscal and staffing resources necessary to carry out the required actions of the SBE as lead agency in the CEQA process. Initially, compliance with CEQA involved minimal resources (staff time and funding). However, relatively recent court rulings and litigation involving the CDE and the SBE regarding the CEQA process resulted in a significant increase in the expenditure of CDE resources on the CEQA process. This increase, coupled with significant reductions in CDE budget and staffing levels, has resulted in the CDE being unable to continue performing the SBE's role as lead agency for CEQA.

Thus, this Bonsall unification proposal represents the first time that the SBE will be required to take its own action as the lead agency for CEQA in a unification proposal (assuming the SBE determines that the proposal merits further consideration). To help clarify the steps required to satisfy CEQA, the flowchart on the previous page is provided, along with a more detailed flowchart of the CEQA process (Attachment 2) prepared by the California Natural Resources Agency.

CDE lacks both the expertise to conduct the CEQA process and the required adopted regulations to contract with an environmental consultant (see California *Government Code* Section 4526). Therefore, CDE previously contracted with the California Department of General Services (DGS) to oversee the CEQA process. It is assumed that the SBE is in the same position as the CDE and will need to contract with DGS to select an environmental consultant and oversee the CEQA process.

SUMMARY OF KEY ISSUES (Cont.)

Regarding the Bonsall unification proposal, there are two basic components for complying with CEQA (California *Public Resources Code* [*PRC*] Section 21000 et seq.). First, the lead agency must conduct an Initial Study to determine whether the proposed project (i.e., unification) may have a significant impact on the environment. Second, the lead agency files a negative declaration of environmental impact or completes an EIR depending on the findings of the Initial Study.

Costs to complete the Initial Study and the EIR can be substantial and, if sufficient funds are not available, the SBE may need to request additional funding from the Legislature. However, *PRC* Section 21089 does allow the lead agency to charge and collect reasonable fees from the person proposing the project, in this case, the individual citizen petitioner(s), for the costs associated with the environmental studies. The SBE also could accept reasonable fees provided by another source, such as the school district, on behalf of the petitioners.

If the lead agency determines that there may be a significant effect on the environment, it must prepare or have prepared an EIR before it approves the proposed project (14 *CCR*, Section 15000 et seq.). The lead agency may approve a project in spite of a significant effect on the environment, but it must consider those implications in making its decision.

Following completion of the CEQA process, the SBE must approve or disapprove the unification proposal. As stated previously, the SBE may disapprove the proposal for any reason, including concerns with effects on the environment. There are no further steps necessary upon disapproval.

The CDE finds that the unification proposal meets all nine conditions of *EC* Section 35753(a) and concurs with the County Committee's vote recommending approval of the petition. SBE approval of the proposal results in the San Diego County Superintendent of Schools calling an election in the territory determined by the SBE. The County Committee recommends that the SBE establish the election area as the entire Fallbrook Union High SD because the remaining portion of the high school district would be affected due to a reduction in the bonding capacity of the high school district and a projected 48 percent increase in responsibility for outstanding bonded indebtedness for property owners in the district.

The CDE finds that the reduction in bonding capacity is mitigated by a corresponding reduction in facility needs due to the loss of the Bonsall area high school students. It also finds that the high school district will retain significant bonding capacity if the Bonsall area is removed (approximately $50 million). The projected 48 percent increase in property owner responsibility for existing bonded indebtedness is approximately $10 per $100,000 of assessed valuation annually. The CDE does not view this increase as significant. Moreover, the SBE, should it find this amount to be significant, has the authority to add a provision to the unification proposal (pursuant to *EC* Section 35738)

SUMMARY OF KEY ISSUES (Cont.)

that could ensure that the current Bonsall area retains an equitable obligation for the outstanding bonded indebtedness of the Fallbrook Union High SD.

Thus, the CDE does not find that effects of the unification on the remaining Fallbrook Union High SD are substantial enough to warrant expanding the election area beyond the boundaries of the current Bonsall Union SD.

FISCAL ANALYSIS (AS APPROPRIATE)

The CDE estimates that the base revenue limit for a Bonsall Unified SD will be $5,224 per average daily attendance, which was calculated by combining the high school district and elementary school district revenue limit funding for the affected students. This calculation is based on the latest 2010–11 data available. If the unification is approved, the CDE will recalculate the revenue limit for the new unified district based on the appropriate information from two years prior to the effective date of the new school district.

Both districts have been fiscally sound over the past several years, maintaining reserves for economic uncertainties above the 3 percent recommended level for districts of their type and size. The transition of students over a four to five year period should provide the Fallbrook Union HSD sufficient time to adjust to the decrease in revenue due to the transfer of students to the proposed new unified district.

Final approval of the unification proposal cannot be given until the SBE complies with CEQA requirements. Costs for such compliance will depend on the level and types of environmental effects of the proposed unification identified in an Initial Study—total CEQA costs could range from $50,000 to $400,000. The SBE, as the lead agency, has the option of recovering the costs of CEQA reviews from the person or entity proposing the project *PRC* Section 21089). No other potential effects on state costs due to the proposed reorganization are identified.

ATTACHMENT(S)

Attachment 1: Report of Required Conditions for Reorganization (31 pages)

Attachment 2: California Natural Resources Agency, CEQA Process Flow Chart (1 page)

Attachment 3: “Racial/Ethnic Report on Formation of a New Unified School District from the Bonsall Union Elementary School District and that Portion of the Fallbrook Union High School District in San Diego County,” California Department of Education (8 pages)

ATTACHMENT(S) (Cont.)

Attachment 4: California Department of Education memorandum, dated March 15, 2010, to Scott Hannan from Kathleen Moore, with subject: Bonsall USD/Fallbrook Union HSD Reorganization (1 page)

Attachment 5: Petition Language (1 page)

Attachment 6: "A Report on the Study of Feasibility of Formation of the Bonsall Unified School District," December 2007, for the San Diego County Committee on School District Organization, prepared by Caldwell Flores Winters, Inc., Cardiff, California (53 pages). This attachment is available electronically via the following link:

bonsallfinalrpt.pdf

A copy of the "Report on the Study of Feasibility of Formation of the Bonsall Unified School District" is also available for viewing at the State Board of Education Office.

Attachment 7: Description of Educational Programs from the "Bonsall Union School District Area Unification Proposal Facilities Plan," April 8, 2010 (5 pages)

Attachment 8: California Code Sections Cited in Agenda Item (11 pages)

Attachment 9: Map of Fallbrook Union High School District, including elementary component districts (1 page)

PROPOSED FORMATION OF THE BONSALL UNIFIED SCHOOL DISTRICT FROM THE BONSALL UNION SCHOOL DISTRICT AND THAT PORTION OF THE FALLBROOK UNION HIGH SCHOOL DISTRICT IN SAN DIEGO COUNTY

REPORT OF REQUIRED CONDITIONS FOR REORGANIZATION

1.0 RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) (1) consider the merits of this unification proposal as the first step of the decision process; and (2), if it determines the proposal would justify approval, to either conduct or secure a contract with another entity to conduct an Initial Study pursuant to California Environmental Quality Act (CEQA) guidelines and, if warranted by the Initial Study, to either conduct or secure a contract with another entity to conduct a full environmental impact report (EIR) in order to take final action to approve the proposal (*Public Resources Code* [*PRC*] Section 21000 et seq.). This recommendation is based on CDE's analysis that finds the unification proposal substantially meets all nine required conditions (California *Education Code* [*EC*] Section 35753[a]).

2.0 BACKGROUND

On May 14, 2007, a petition—signed by 25 percent of the registered voters of the area as required by *EC* Section 35700(a)—was filed with the San Diego County Office of Education (COE). The petition (Attachment 5) proposes the formation of a new unified school district from territory of the Bonsall Union SD and the corresponding portion of the Fallbrook Union HSD.

If the unification becomes effective, two elementary school districts (Fallbrook Union and Vallecitos) would remain as component districts of the Fallbrook Union HSD, which operates one comprehensive, one continuation, and one alternative school. None of the high schools are within the boundaries of the Bonsall Union SD.

County superintendents of schools are required to determine whether reorganization petitions are sufficient and signed as required by law (*EC* 35704). On or about May 31, 2007, the County Superintendent determined the petition for formation of the Bonsall Unified SD legally compliant and transmitted it to the County Committee.

The County Committee held a public hearing on August 6, 2007. Also, in 2007, the County Committee had "A Report on the Study of Feasibility of Formation of the Bonsall Unified School District" (Feasibility Study) prepared to analyze the effects of the proposed unification (Attachment 6).

At a regular meeting on December 3, 2007—after public comments and a presentation on the Feasibility Study by a private consultant—the County Committee voted that two of the nine required conditions are not substantially met:

- "Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization." The County Committee expressed concerns that State Allocation Board funding for the Fallbrook Union HSD might be reduced because of duplicative seats and that construction costs for a new Fallbrook high school might exceed the district's bonding capacity.

- "The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization." The County Committee's Feasibility Study indicated that both districts have sound fiscal management and would likely survive the reorganization, but it expressed concerns regarding the ability of the new district to offer salaries comparable to those offered by the Fallbrook Union HSD since the revenue limit for the proposed Bonsall Unified School District would be a blended revenue limit without any increase for salary or benefit differences.

The County Committee then voted 3-2 on a recommendation that the SBE approve the unification proposal, and voted unanimously on a recommendation that the SBE expand the election area to include the entire Fallbrook Union HSD.

The CDE concludes that all nine required conditions of *EC* Section 35753(a) are substantially met and supports the County Committee recommendation to approve the unification proposal. On the two conditions the County Committee determined are not substantially met, the CDE noted the following:

- CDE's School Facilities Planning Division (SFPD) in its report (Attachment 4) points out that the Fallbrook Union HSD could adjust its inventory of 33 portables, which would eliminate duplicative seats, provide the additional benefit of reclaiming field and hard-court areas, and reduce the size and scope of any new high school.

- The CDE analysis notes that the disparity in salaries between the districts has narrowed, both districts have 2010–11 reserve levels well above the required 3 percent (Fallbrook Union HSD, 9 percent; Bonsall Union SD, 28 percent), and the decrease in Fallbrook Union HSD's revenue due to the loss of approximately 526 students as a result of the reorganization will be gradual, allowing the district sufficient adjustment time.

Once CEQA is satisfied and the petition is moving toward approval, the CDE staff would recommend amendments, including that the election be held in the Bonsall Union SD only since no substantial negative effects to the Fallbrook Union HSD are identified.

3.0 REASONS FOR THE UNIFICATION

The following reasons for creating a Bonsall Unified SD are cited in the petition:

- A desire to establish a unified school district that will be responsive to the unique needs of their rural and geographically isolated student population.
- A desire to provide a coordinated, sequential preschool through twelfth grade educational program.
- A belief that unification will increase collaboration between elementary staff, secondary staff, and the community in the pursuit of educational goals.
- A belief that unification will provide for more effective use of district resources.
- A belief that unification is necessary for the provision of safe and effective health care, child nutrition, and special services.
- A desire for a single board of trustees and administration to determine educational expectations and accountability.

4.0 POSITIONS OF SCHOOL DISTRICTS

4.1 Fallbrook Union HSD

The Fallbrook Union HSD opposes the proposal, stating the reorganization will have a negative impact on the district's facility plan and revenue.

4.2 Bonsall Union SD

The Bonsall Union SD supports the proposal, citing a desire for a community high school and a coordinated elementary and high school program.

5.0 *EC* SECTION 35753 CONDITIONS

The SBE may (but is not required to) approve a proposal for the reorganization of districts if the SBE has determined the proposal substantially meets the nine conditions in *EC* Section 35753(a). Those conditions are further clarified by *California Code of Regulations,* Title 5 (5 *CCR*), Section 18573.

The SBE also may approve a proposal if it finds that all *EC* Section 35753(a) conditions are **not** substantially met, but subsequently "determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposal provides an exceptional situation sufficient to justify approval…"(*EC* Section 35753[b]).

For its analysis of the current proposal, the CDE reviewed the following information provided by the San Diego County Office of Education (COE), the chief petitioners, the affected districts, and other agencies:

- Petition for the proposed unification.
- "A Report on the Study of Feasibility of Formation of the Bonsall Unified School District, December 2007, for the San Diego County Committee on School District Organization" (Feasibility Study).
- "Bonsall Union School District Area Unification Proposal Facilities Plan," April 8, 2010.
- Miscellaneous related documents.

CDE findings and conclusions regarding the required conditions in *EC* 35753 and 5 *CCR* Section 18573 follow.

5.1 *EC* Section 35753(a)(1): The reorganized districts will be adequate in terms of number of pupils enrolled.

Standard of Review

It is the intent of the SBE that direct service districts not be created which will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that each such district should have the following projected enrollment on the date the proposal becomes effective or any new district becomes effective for all purposes: elementary district, 901; high school district, 301; unified district, 1,501 (5 *CCR* Section 18573[a][1][A]).

County Committee Evaluation/Vote

The Feasibility Study concluded the reorganization meets the district size condition with projected enrollments in 2008 of 2,452 for the new unified district and 2,495 for the remaining Fallbrook Union HSD. The County Committee voted unanimously that the condition is substantially met.

Findings/Conclusion

Data from the California Basic Educational Data System (CBEDS) for 2009–10 provides a kindergarten through eighth grade (K–8) enrollment of 1,977 for the Bonsall Union SD. In 2009–10, the Fallbrook Union HSD had a 9–12 student enrollment of 3,002. With the transfer of approximately 526 Bonsall area 9–12 students, the new unified district would have a student enrollment of 2,503, and the remaining Fallbrook Union HSD would have an enrollment of 2,476.

The CDE concludes that this condition is substantially met as the projected enrollments on the effective date of the reorganization exceed the required 1,501 for unified districts and 301 for high school districts.

5.2 *EC* Section 35753(a)(2): The districts are each organized on the basis of a substantial community identity.

Standard of Review

The following criteria from 5 *CCR* Section 18573(a)(2) should be considered to determine whether a new district is organized on the basis of substantial community identity: isolation; geography; distance between social centers; distance between school centers; topography; weather; community, school and social ties; and other circumstances peculiar to the area.

County Committee Evaluation/Vote

As described in the Feasibility Study, the Bonsall Union SD encompasses a 71.3-square mile area—extending from the eastern portion of the city of Oceanside to just west of Valley Center—located in an unincorporated area of northern San Diego County. The core Bonsall community (13.5 square miles) covers almost 19 percent of the Bonsall Union SD, while the remaining 81 percent is distributed among neighborhoods in eastern Oceanside, northern Escondido, and Fallbrook. The Feasibility Study notes that:

- If the unification becomes effective, high school students would have a shorter commute to a school located in the Bonsall core area than they currently have to Fallbrook High School (five to seven miles from Bonsall and farther from the outlying areas of the Bonsall Union SD).

- Shopping and social activities mainly occur in three areas of the Bonsall Union SD: (1) Bonsall Union SD core area residents patronize the small retailers and restaurants of that area; (2) Bonsall Union SD western area residents generally shop and have social ties in Fallbrook, Vista, and Oceanside; and (3) Bonsall Union SD eastern area residents shop and have social ties mostly in Escondido, Fallbrook, and Temecula.

The Feasibility Study concludes that families who live in the western and core areas of the Bonsall Union SD would be better served by a comprehensive high school located in their area, and community identity would be enhanced if the school also serves as a community center.

The Bonsall school system and local organizations—including the Bonsall Community Center, chamber of commerce, rotary club, women's club, and others—contribute to the unique identity and character of the Bonsall area, according to the Bonsall Union SD.

The County Committee voted unanimously (50) that this condition was substantially met.

Findings/Conclusion

The CDE concludes that the districts would be organized on the basis of substantial community identity, and this condition is substantially met. The commute to a new high school would be shorter and that school could serve as a community center also. In addition, the community identity of the existing component elementary districts would be maintained since the boundaries of the proposed Bonsall Unified SD would correspond to the existing Bonsall Union SD boundaries and the Fallbrook Union and Vallecitos SD boundaries would not change.

5.3 *EC* Section 35753(a)(3): The proposal will result in an equitable division of property and facilities of the original district or districts.

Standard of Review

To determine whether an equitable division of property and facilities will occur, the CDE reviews proposals for compliance with the provisions of *EC* sections 35560 and 35564 and determines which of the criteria authorized in *EC* Section 35736 shall be applied. The CDE also ascertains that the affected districts and county office of education are prepared to appoint the committee described in *EC* Section 35565 to settle disputes arising from such division of property (5 *CCR* Section 18573[a][3]).

County Committee Evaluation/Vote

The Feasibility Study provides one possible example of how property, funds, and obligations, including bonded indebtedness, may be divided fairly between the districts. Following is a summary of the example from the Feasibility Study:

(a) Real Property and Personal Property Normally Situated in Each District (Open and Operating School Sites)

"The Fallbrook Union HSD has no operating school sites within the territory of the proposed Bonsall Unified SD that would accrue to the proposed Bonsall Unified SD upon formation." But the Fallbrook Union HSD does own a 50-acre undeveloped parcel that has never been a school site or approved by the CDE for such. The Feasibility Study advises the districts to negotiate the value and ultimate disposition of this undeveloped parcel as an asset of real property.

(b) Funds and Obligations

As most district operational funds are based on average daily attendance (ADA) or enrollment, the Feasibility Study uses ADA for the division of those funds and liabilities. Similarly, since capital funds are generally linked to AV, the Feasibility Study uses AV for the allocation of capital funds.

Using proportionate ADA, the Feasibility Study allocates to the proposed Bonsall Unified SD approximately 17 percent of Fallbrook Union HSD's operational funds and liabilities that are ADA-based (e.g., General Fund balances and compensated absences). Using AV, the Feasibility Study allocates to the proposed Bonsall Unified SD 32 percent of the high school district's AV-based fund balances and liabilities (e.g., Bond Interest Fund balance and accrued interest), excluding any liabilities paid from local property taxes, such as general obligation bond debt.

(c) Personal Property

The Feasibility Study states that personal property used by the Fallbrook Union HSD for district-wide purposes (e.g., school buses) is subject to division. In addition, the Feasibility Study presents valuation and payment options (appraisals, cash balances or future revenues as payments) and a methodology for resolution of disputes (binding arbitration).

(d) Student Body Funds

Student body funds would be divided proportionately based on the student enrollment from existing Fallbrook Union HSD schools that attend school in the proposed Bonsall Unified SD and the remaining Fallbrook Union HSD.

(e) Bonded Indebtedness

The construction of Fallbrook High School was funded with local property tax revenue and state funds, and voters recently passed a general obligation bond for modernization of the school, reports the Feasibility Study.

The Feasibility Study also notes that the Fallbrook Union HSD owns a 50-acre undeveloped parcel of land within the proposed Bonsall Unified SD, but no schools in that territory. Because the undeveloped parcel is not a public school site, the Feasibility Study considers the parcel to be an asset of real property that is subject to valuation and division.

Accordingly, the Feasibility Study concludes that the proposed Bonsall Unified SD contains no Fallbrook Union HSD "public school property or buildings" and, therefore, the "voter approved liability [of Bonsall Union SD property owners] to pay the general obligation bonds of the Fallbrook Union HSD would cease upon formation of the proposed Bonsall Unified SD," (*EC* Section 35575).

However, the Feasibility Study cautions that it is important to recognize that annual taxes for the payment of school bonds would increase by approximately 48 percent in the remaining Fallbrook Union HSD since the reorganization is projected to remove approximately 32 percent of Fallbrook Union HSD's AV. For that reason, the Feasibility Study advised the County Committee to recommend the entire Fallbrook Union HSD as the election area, concluding that this condition would be met if the affected taxpayers are given an opportunity to vote on the unification proposal.

The County Committee voted 4 to1 that the proposal would result in an equitable division of property and facilities. (Subsequently, the County Committee recommended the Fallbrook Union HSD as the election area.)

Findings/Conclusion

The CDE finds that existing *EC* provisions may be used to achieve an equitable distribution of relevant property, funds, and obligations of the Fallbrook Union HSD. The CDE recommends the following regarding this distribution:

- The districts should negotiate the value and disposition of an undeveloped 50-acre parcel (purchased by the Fallbrook Union HSD in 1967) located in the transferring territory as an asset of real property, as recommended in the Feasibility Study. The CDE concurs with the Study recommendation because the parcel is undeveloped, not a school site (nor ever approved by the CDE to be a school site), and no proceeds from Fallbrook Union HSD's existing bonded indebtedness (authorized in 1994 for $23 million) were used to purchase the parcel. Therefore, the CDE agrees with the Feasibility Study that this unimproved parcel is not a factor statutorily in the allocation of Fallbrook Union HSD's bond debt, which is discussed later in this section.

- All assets (excluding real property) and liabilities of the Fallbrook Union HSD shall be divided based on the proportionate ADA of the high school students residing in each section of the reorganized districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes (*EC* 35736).

- Student body property, funds, and obligations shall be divided proportionately, each share not to exceed an amount equal to the ratio of the number of pupils leaving the schools bears to the total number of pupils enrolled; and funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided (*EC* 35564).

- Bonded indebtedness shall be divided using statutorily defined methods provided by *EC* sections 35575 and 35576. Specifically, these *EC* sections provide that the transferring territory leaves all the bonded indebtedness with the original school district, in this case the Fallbrook Union HSD, if the transferring territory does not include any improvements (buildings). If the transferring territory does include improvements, the transferring territory takes either its proportionate share of the bonded indebtedness or the bonded indebtedness that covered the cost of the improvements, whichever is greater, to the new district. In this reorganization, the statutory default would have the transferring territory leaving all the bonded indebtedness with the Fallbrook Union HSD as there are no improvements in the transferring territory.

  As shown in the following table, bonded indebtedness has not increased in the Fallbrook Union HSD since voters approved a $23 million general obligation (GO) bond measure in 1994. The table also shows the decline in AV and bonding capacity limit for the Fallbrook Union HSD if the Bonsall Union SD is removed through

unification. As can be seen, Fallbrook Union HSD's bonded indebtedness is estimated to remain below its bonding capacity, providing assurance that the district would be able to request voters to approve up to an additional $50 million in GO bond debt after reorganization.

Fallbrook Union HSD Bonded Indebtedness and AV (in millions)

GO Bond Election	**Issued**	**Unissued**	**Outstanding Principal**
1994 ($23)	$23	$0	$16 (tax rate of $21.37 per $100,000 AV)
	AV	**1.25% of AV (Bond Cap)**	
Before Unification	$8,075	$101	
After Unification (36% AV reduction)	$5,204	$65	

Source: County of San Diego Auditor and Controller Reports, fiscal year 2010-11

Using the statutorily defined allocation method for bond payments—transferring territory leaves all the bonded indebtedness since there are no improvements in that territory—and applying the Feasibility Study projected tax rate increase of 48 percent, payments for GO bonds in the remaining Fallbrook Union HSD are projected to increase by $10.25 per $100,000 of AV, or from $21.37 to $31.62 annually.

Although the Fallbrook Union HSD would lose AV under the statutorily defined methods provided by *EC* sections 35575 and 35576, it would no longer have responsibility for providing programs in that territory while maintaining the options of issuing additional bonds (if voters approve), reducing its portable classroom inventory, and reducing the scope of any new high school facilities because of the reduced number of students that the district would be required to house (discussed in Section 5.7).

The SBE also may add a provision to the unification proposal (pursuant to *EC* Section 35738) to reduce any increase in property tax payments in the remaining Fallbrook Union HSD. Section 35738 allows the SBE to include in the unification proposal a more equitable method of allocating bonded indebtedness than is provided by *EC* sections 35575 and 35576. Such a method could ensure that the property owners in the current Bonsall Union SD would retain an equitable obligation for the outstanding bonded indebtedness of the Fallbrook Union High SD after unification.

- Disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county

superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed (*EC* 35565).

Given the above circumstances, the CDE recommends that this condition is substantially met.

5.4 *EC* Section 35753(a)(4): The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

Standard of Review

The definition of "segregation" is provided by the California Supreme Court in its decision in *Crawford v. Board of Education of the City of Los Angeles* (1976) 17 Cal.3d 280 (*Crawford*).[1] The court defined segregated schools as those "in which the minority student enrollment is so disproportionate as realistically to isolate minority students from other students and thus deprive minority students of an integrated education experience." (*Crawford* at 303). The SBE has adopted regulations that specify the factors to be considered in determining whether the new districts resulting from a unification will promote racial or ethnic discrimination or segregation (5 *CCR* Section 18573[a][4]). These regulations provide:

"To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:

(A) The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in

[1] It has been argued that neither county committees nor the SBE need address the provisions of *EC* Section 35753(a)(4), in light of the voters' adoption of California Constitution Article I, Section 31 (Proposition 209). The subject of this ballot measure is affirmative action, and it prohibits the granting of preferential treatment, as well as discrimination, in education to any group on the basis of race. Article III, Section 3.5, provides that an administrative agency (such as the SBE) has no power to declare unconstitutional or refuse to enforce any statute on the grounds of unconstitutionality in the absence of an appellate court decision to that effect. There is no appellate court ruling declaring *EC* Section 35753(a)(4) unconstitutional. Accordingly, the SBE is required to address *EC* Section 35753(a)(4).

each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.

(B) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school of the affected districts.

(C) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.

(D) The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.

(E) The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause."

The definition of segregation has both quantitative and qualitative components. The quantitative component is "so disproportionate as realistically to isolate minority students" and the qualitative component is to "deprive minority students of an integrated educational experience." In determining whether there is segregation, set racial or ethnic percentages are not established—either by judicial decree, statute, or regulation. Rather, the determination requires consideration of the various factors set forth in the applicable regulation.

County Committee Evaluation/Vote

The following tables present summaries of the 2006–07 ethnic enrollment data from the Feasibility Study:

2006–07 Ethnic Enrollment in Affected Districts

	Minority Students	**White Students**
Fallbrook Union HSD	1,516 (51.5%)	1,430 (48.5%)
Fallbrook Union HSD students in Bonsall Union SD area	280 (54.5%)	234 (45.5%)
Bonsall Union SD	905 (49.6%)	919 (50.4%)

Source: California Basic Education Data System (CBEDS) and Feasibility Study.

As depicted in the above table, 51.5 percent of the students enrolled in the Fallbrook Union HSD in 2006–07 were minority students, and 54.5 percent of the high school students who resided within the area of the Bonsall Union SD were minority students. In the Bonsall Union SD, the K-8 student enrollment in 2006–07 was 49.6 percent minority and 50.4 percent white.

The following table compares the percent of minority students in both districts before the proposed unification with the percent after the unification presented in the Feasibility Study.

2006–07 Percent Minority Students in Affected Districts

	Minority Students	**White Students**
Fallbrook Union HSD	1,516 (48.9%)	1,430 (46.1%)
Bonsall Union SD	905 (49.5%)	919 (50.2%)
After Unification		
Fallbrook Union HSD	1,236 (47.8%)	1,196 (49.2%)
Bonsall Unified SD	1,185 (50.7%)	1,153 (49.3%)

Source: CBEDS and Feasibility Study.

The previous table shows minority student enrollment changes by roughly 1.0 percent as a result of the proposed unification.

The County Committee voted unanimously that this condition is substantially met.

Findings/Conclusion

Attachment 3 is the full report prepared by the CDE to analyze the racial/ethnic effect of the unification in the affected districts. The CDE report (using 2009–10 CBEDS data) shows the Fallbrook Union HSD has a minority student population of 56.6 percent. Transferring approximately 526 students from the Fallbrook Union HSD to the proposed Bonsall Unified SD would increase the minority student population by 1.3 percentage points (from 59.1 to 60.4 percent) in the Fallbrook Union HSD and 2.2 percentage points (from 44.6 to 46.8 percent) in the new unified district.

Based on the attached analysis, the CDE concludes that both districts would have minority enrollments that are “proportionate” and the proposed unification substantially meets the condition that the reorganization will preserve each district’s ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

5.5 *EC* Section 35753(a)(5): Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

Standard of Review

EC sections 35735 through 35735.2 mandate a method of computing revenue limits without regard to this criterion. Although the estimated revenue limit is considered in this section, only potential costs to the state other than those mandated by *EC* sections 35735 through 35735.2 are used to analyze the proposal for compliance with this criterion.

County Committee Evaluation/Vote

The Feasibility Study surmises that (1) transportation costs for students in grades 9–12 in both districts may decrease; (2) materials used in categorically funded programs could be redistributed; (3) state costs for school facilities might increase; and (4) the blended revenue limit for the new district is not likely to be augmented for differences in average salaries and benefits between the two districts, which, the Study estimates, leaves the new district needing $516 more per ADA to offer salaries and benefits comparable to those offered by the Fallbrook Union HSD.

However, the Feasibility Study concludes that “a financial impact to the state for this reorganization is unlikely” and this condition is substantially met.

The County Committee voted unanimously that this condition is substantially met.

Findings/Conclusion

Based on the latest 2010–11 data available, the proposed Bonsall Unified SD’s estimated base revenue limit per ADA is $5,224. The $5,224 was calculated by combining the Fallbrook Union HSD and Bonsall Union SD revenue limit funding for the affected students. (The proposed district is not eligible for an increase to the blended revenue limit because the Fallbrook Union HSD—with higher average salaries and benefits—would not supply at least 25 percent of the ADA that will be transferred to the new district.) If the proposed unified district becomes effective for all purposes, the revenue limit will be calculated by staff in the CDE Principal Apportionment Unit using current information submitted by the County Office of Education based on second prior fiscal year data. Assuming a July 1, 2012, effective date for a Bonsall Unified SD, information from the 2010–11 second principal apportionment period would be used. As stated previously, increases in revenue limit funding due to reorganization are not

considered as increases in costs to the state since the funding is statutorily mandated and capped.

State costs for transportation, categorical programs, regular programs, and special education should not be affected significantly by the proposed reorganization since, typically, funding for these programs follows the students.

Substantial costs to the SBE to conduct the legally required CEQA process could be viewed as significant and more than incidental increased costs to the state. However, the SBE has the ability, pursuant to California *Public Resources Code* (*PRC*) Section 21089, to recover reasonable costs to conduct CEQA.

The CDE agrees with the conclusion of the Feasibility Study and the County Committee vote that the proposal substantially meets this condition.

5.6 *EC* Section 35753(a)(6): The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

Standard of Review

The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition, and the California Department of Education shall describe the district-wide programs, and the school site programs, in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition (5 *CCR* Section 18573[a][5]).

County Committee Evaluation/Vote

The relatively small difference in the California Academic Performance Index (API) scores among the component districts (Bonsall Union, 789; Fallbrook Union Elementary, 774; Vallecitos, 742) indicates the reorganization will not significantly impact the level of students entering Fallbrook High School, notes the Feasibility Study.

This condition would not be substantially met, according to the Feasibility Study, because:

- The new district might not have sufficient funding—no add-on to the blended revenue limit for differences in average salaries and benefits—to offer salaries comparable to those paid in the Fallbrook Union HSD to attract high school teachers with multiple subject credentials needed by a small high school.

- Advanced placement and other special programs in both districts, with the transfer of 526 students, would be too small to operate appropriately.

Bonsall Union SD trustees presented information on plans to use technology and partner with other entities (local community college and "even Fallbrook") to offer programs in the new district.

Further, Bonsall Union SD trustees maintain that Feasibility Study assumptions about salaries and benefits are incorrect, stating that 2006–07 negotiations resulted in employee salaries and benefits that are competitive with those offered in the Fallbrook Union HSD.

The County Committee voted 3 to 2 that this condition is substantially met.

Findings/Conclusion

The CDE concurs with the County Committee vote that this condition is substantially met. While the Fallbrook Union HSD would endure some disruption to its educational program, it would have a four to five-year transition period to adjust to losing approximately 526 students.

The CDE updated the 2006 data provided in the Feasibility Study, and the following sections incorporate that updated data as well as reviews of other information.

(a) Students at school level

The transfer of approximately 526 students primarily affects the enrollment at Fallbrook High School (the only comprehensive high school in the Fallbrook Union HSD).

(b) Performance Indicators

The API provides a means to compare the performance of schools and districts in the state. Under the No Child Left Behind (NCLB) Act, schools must meet certain criteria to make Adequate Yearly Progress (AYP).

A summary of these performance indicators is incorporated into the following table for appropriate schools in the two affected districts.

2010 Performance Indicators

	2010 API Growth	Met API Growth Target?	Met 2010 AYP Criteria?
Fallbrook Union HSD	747	N/A	No
Fallbrook High	755	No	No
Bonsall Union SD	853	N/A	No
Bonsall Elementary	867	Yes	No
Bonsall West Elementary	883	Yes	Yes
Norm Sullivan Middle	831	Yes	No

Source: CDE Accountability Progress Reporting

(c) Program Improvement

As noted in the following table, the Fallbrook Union HSD is in its third year of Program Improvement (PI), and Fallbrook Union High School is in the first year of PI.

2010 Program Improvement Status

	In PI?	PI Year
Fallbrook Union HSD	Yes	Year 3
Fallbrook High	Yes	Year 2
Bonsall Union SD	No	N/A
Bonsall Elementary	Not Title 1	N/A
Bonsall West Elementary	Not Title 1	N/A
Norm Sullivan Middle	No	N/A

Source: CDE Accountability Progress Reporting

As a PI district, the Fallbrook Union HSD must comply with specific corrective actions, which include student transfer options to non-PI schools, either within or outside the district. The Bonsall Union SD is not in PI status, and the new district—having no historical performance data—would not be in PI status.

(d) English Learner Students

The state Language Census collects the number of English Learner (EL) students (formerly known as Limited-English-Proficient or LEP) and other related data. The following table aggregates the 2009–10 Language Census data for schools in the affected districts and projects the effect of the proposed unification on the EL student population.

2009–10 English Learner (EL) Students by School District

District	Student Population	EL Student Population	% EL Students
Bonsall Union SD	1,977	348	17.6%
Fallbrook Union HSD	3,002	439	14.6%
After Unification*			
Bonsall Unified SD	2,503	441	17.6%
Fallbrook Union HSD	2,476	346	14.0%

* Numbers of transferred EL high school students are based on the existing percentage of EL students in the Bonsall Union SD (17.6% of the 526 students expected to transfer).
Source: CDE Language Census

Based on the estimates in the previous table, the proposed unification would remove 93 EL students from the Fallbrook Union HSD and place them in the Bonsall Unified SD. This loss of 93 EL students, in conjunction with the loss of 526 total secondary students, decreases the percentage of EL students in the Fallbrook Union HSD from 14.6 percent to 14 percent.

(e) Free or Reduced Price Meals Program

The Free or Reduced Price Meals (FRPM) data includes information on the number of students enrolled in FRPM programs. The following table presents this 2009–10 information for the schools in the affected districts and projects the effect of the proposed unification on these student populations.

Students in FRPM Program by District

District	Percent of Students in FRPM Program
Bonsall Union SD	34.4%
Fallbrook Union HSD	45.6%
After Unification*	
Bonsall Unified SD	34.4%
Fallbrook Union HSD	47.7%

* Transferred high school students based on percentage of appropriate student population in Bonsall Union SD.
Source: CDE FRPM program

Based on the estimates in the above table, the proposed unification would remove 181 students in the FRPM Program from the Fallbrook Union HSD and place them in the Bonsall Unified SD. The loss of FRPM students, in conjunction with the overall loss of 526 secondary students, would increase the percent of Fallbrook Union HSD students in the FRPM Program from 45.6 percent to 47.7 percent.

(f) Advanced Placement Courses

The Feasibility Study expressed concerns that the transfer of 526 students might leave both reorganized districts without enough students to operate limited-size programs such as Advanced Placement (AP) courses.

The following tables display the (1) number of AP courses that Fallbrook High School offered by subject; (2) the percent of the school's students enrolled in all AP courses; and (3) the estimated number of students that may be affected by the proposed unification.

AP Courses (2009–10), Fallbrook High School (enrollment 2,790)

Subject	Number of Courses Offered	% of Students in AP Courses
English	2	4.1%
Fine/Performing Arts	3	2.0%
Foreign Language	2	4.3%
Mathematics	1	1.3%
Science	2	2.0%
Social Science	3	6.9%
All Courses	**13**	**10.9% (304 students)**

Source: School Accountability Report Card (SARC)

AP Courses Projected
Fallbrook High School After Reorganization (enrollment 2,264)

Subject	Number of Courses Offered	Percent of Students In AP Courses	Students to New District	Remaining Fallbrook Students
English	2	4.1%		
Fine/Performing Arts	3	2.0%		
Foreign Language	2	4.3%		
Mathematics	1	1.3%		
Science	2	2.0%		
Social Science	3	6.9%		
All Courses	**13**	**10.9%**	**57**	**247**

Based on data presented in these tables, the reorganization should not significantly affect the district's AP course offerings given the transition time (up to five years) until the new district educates all its students.

In addition, the methodologies of the proposed Bonsall Unified SD for providing specialized programs include (1) a plan to work with Palomar College to provide a "2 plus 2 program" that will enable high school students to graduate with up to two years of college credit; (2) differentiated instruction for various groupings of

students; and (3) innovative uses of technology to extend learning time or provide specific courses ("Bonsall Union School District Area Unification Proposal Facilities Plan," Attachment 7).

The CDE concludes that this condition is substantially met.

5.7 *EC* Section 35753(a)(7): Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

County Committee Evaluation/Vote

Currently, both districts have sufficient facilities, but the Bonsall Unified SD would have to construct a high school and the Fallbrook Union HSD would have costs associated with unused classroom seats if the districts reorganize, according to the Feasibility Study.

The Feasibility Study examination of a 2006 Level I developer study for the Fallbrook Union HSD shows new development over the next 20 years is expected to generate approximately 547 students—279 in the petition area and 268 in the remaining area of the Fallbrook Union HSD. Of the 526 students that would transfer from the Fallbrook Union HSD, 268 would be replaced by students from new development, leaving 258 seats unfilled in the Fallbrook Union HSD for at least 20 years, the Feasibility Study estimates. Thus, the Study uses the cost to construct facilities for 526 students (a 600-student high school at $41,667 per seat) in the proposed Bonsall Unified SD, plus the cost of 258 unfilled seats in the Fallbrook Union HSD to calculate total facilities costs attributable to the reorganization:

Facilities Costs Attributable to Reorganization

600-student high school ($41,667 per seat)	$25,000,000
258 duplicate seats (268 of 526 transfer students replaced by growth in HSD)	10,750,086
Total	$35,750,086

Source: Feasibility Study

The Feasibility Study concluded that this condition was not substantially met, expressing concerns regarding the possibility of a reduction in funding from the State Allocation Board (SAB) because of duplicative seats and construction costs exceeding the district's bonding capacity.

The petitioners testified that they planned to provide an alternative to the traditional high school, a new model ("Integrated Learning Environment," Attachment 7) that builds on the education Bonsall students receive. Testimony also included information on how empty classrooms and

buildings in the existing elementary district could be converted for high school use.

The County Committee voted 3–2 that the facilities condition is not substantially met.

Findings/Conclusion

The SFPD provides support to the CDE review of reorganization proposals. Based on analysis of information available, the SFPD made the following findings (Attachment 4):

- An adjustment to Fallbrook Union HSD's inventory of 33 portables over the next 20 years would offset duplicate seat costs and also provide the additional benefit of reclaiming field and hard-court areas occupied by portable classrooms.

- The size and cost of an additional Fallbrook high school (August 6, 2007, minutes) could be reduced if the proposed Bonsall Unified SD provides facilities for the 526 students currently attending Fallbrook Union HSD schools and the 279 students projected from potential growth in the Bonsall area over the next 20 years.

The SFPD concludes that the cost to provide facilities is incidental and insignificant since (1) the creation of duplicative seats is incidental to the creation of a new unified school district in which a high school is not located; and (2) the cost of duplicative seats in this case is offset by the ability of the Fallbrook Union HSD to both reduce its portable inventory and reduce the scope of proposed new high school facilities.

The CDE agrees with the findings and conclusion of the SFPD and concludes that this condition is substantially met.

5.8 *EC* Section 35753(a)(8): The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

County Committee Evaluation/Vote

The Feasibility Study recommended "that the County Committee deem this condition substantially met" since analysis of property values in the area indicates reorganization would not significantly impact property values in any section of the Fallbrook Union HSD and the proposed Bonsall Unified SD."

The County Committee voted unanimously (5-0) that this condition is substantially met.

Findings/Conclusion

No evidence was presented during the County Committee proceedings to indicate that the proposed formation of the Bonsall Unified SD would increase property values in the petition area. Nor is there any evidence from which it can be discerned that an increase in property values could be the primary motivation for the proposed unification. The CDE concludes this condition is substantially met.

5.9 *EC* Section 35753(a)(9): The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

County Committee Evaluation/Vote

The Feasibility Study indicates that both districts have sound fiscal management and would likely survive the reorganization, but concludes this condition is not substantially met. In support of this conclusion, the Feasibility Study provides the following opinions:

- The revenue limit for the proposed Bonsall Unified SD would be a blended revenue limit with no additional increase for salary or benefits of classified and certificated employees, which may result in the district having employees with expectations of receiving higher salaries and benefits than the blended revenue limit would allow.

- If the proposed Bonsall Unified SD chooses to offer a salary and benefit package comparable to Fallbrook Union HSD's, the new district likely would expend more funds than it receives, which generally leads to insolvency, notes the Feasibility Study.

- If the proposed Bonsall Unified SD fails to offer a similar salary and benefit package, it likely would not be able to attract the highly qualified teachers needed to offer even basic educational programs, and significant disruption of the educational program would likely occur, according to the Feasibility Study.

The Bonsall Union SD's Board of Trustees stated that the Feasibility Study assumptions about salaries and benefits are false. The trustees indicated that 2006–07 negotiations produced salaries and benefits that are competitive with Fallbrook Union HSD's salaries and benefits. The trustees further claim they would not make such fiscally irresponsible decisions as those presented in the Feasibility Study.

The County Committee considered the effects of the proposal and voted 3-2 that this condition is not substantially met.

Findings/Conclusion

The CDE disagrees with the Feasibility Study recommendation that Condition 9 is not met.

The Fallbrook Union HSD has been fiscally sound over the past several years. The district has maintained reserves for economic uncertainties well above the recommended 3 percent level. Most recently, the County Office of Education projected that the district will have a reserve level of $2.5 million for 2010–11, which represents about a 9 percent reserve level. Although, the Fallbrook Union HSD projects declining enrollments through 2012–13, when the new unified district could become effective; projections also indicate the district will continue to exceed its recommended 3 percent reserve level in 2012–13.

With the projected loss of an additional 526 students as a result of the reorganization, the Fallbrook Union HSD will certainly be faced with fiscal challenges. The loss of 526 students would result in a reduction of approximately $3 million in revenue limit funds for the Fallbrook Union HSD. Considering only savings from the reduction of approximately 22 teachers, annual General Fund net loss to the Fallbrook Union HSD is estimated at $1 million. This projected loss does not include any potential reduction of categorical program revenues.

However, the decrease in revenue due to the enrollment loss may not occur in the first year or two of the proposed reorganization. The loss of potential secondary students could be very gradual over the first five years of the proposed reorganization since some students (especially juniors and seniors) may be reluctant to transfer from the schools they are attending. This gradual loss of students will allow the Fallbrook Union HSD sufficient time to adjust to the impact of the reorganization.

Bonsall Union SD’s fiscal status has been very stable. The district has been fiscally responsible, implementing a board policy to maintain a 5 percent reserve, even though their recommended level is 3 percent. The district currently projects reserves in excess of $3.8 million—a reserve level of about 28 percent for 2010–11.

The Feasibility Study shows that salaries and benefits for Fallbrook Union HSD certificated staff were 28 percent higher than for Bonsall Union SD staff in 2005–06. The study concludes that if the proposed Bonsall Unified SD offered salary and benefits packages commensurate with the higher salary and benefit packages of each district, there would be a significant shortfall of funds.

The CDE found the disparity in certificated staff salaries has narrowed since 2005–06. Following are the annual salaries for teachers from the

"2009–10 Salary and Benefit Schedule for the Certificated Bargaining Unit (Form J-90)":

2009–10 Teacher Salary Schedule—Annual Salary			
	Bonsall Union SD	Fallbrook Union HSD	Percent Difference
Lowest Offered	$37,630	$36,675	-2.5%
Highest Offered	84,471	86,601	+1.8%
Average Paid	62,110	69,664	+12.2%

Although Fallbrook Union HSD's average paid teacher salaries are about 12 percent higher than salaries of the Bonsall Union ESD, the lowest and highest offered salaries of both districts are comparable. Further, it is not discernable from the data available how much of the difference in average salaries is driven by seniority versus salary schedule differences. Moreover, the proposed Bonsall Unified SD is not obligated to adopt the highest teacher salary schedules offered by the Fallbrook Union HSD. The certificated salary schedule(s) of the new district will be a product of negotiations between the district and its bargaining units.

The CDE concludes that this condition is substantially met.

6.0 COUNTY COMMITTEE *EC* SECTION 35707 REQUIREMENTS

The *EC* requires county committees to make certain findings and recommendations and to expeditiously transmit them along with the reorganization petition to the SBE. These required findings and recommendations are:

6.1 County Committee Recommendation for the Petition

A county committee must recommend to the SBE approval or disapproval of a petition for unification. The County Committee voted 3-2 to recommend approval of the proposal to form Bonsall Unified SD.

6.2 Effect on School District Organization of the County

Section 35707 requires a county committee to report whether the proposal would adversely affect countywide school district organization. The County Committee voted 5-0 that the proposal would not adversely affect countywide school district organization

6.3 County Committee Opinion Regarding *EC* Section 35753 Conditions

A county committee must submit to the SBE its opinion regarding whether the proposal complies with the provisions of Section 35753. The County Committee found that seven of the nine conditions in Section 35753(a) are substantially met by the following votes:

- Adequate Enrollment (5-0)
- Community Identity (5-0)
- Equitable Division of Property (4-1)
- Promotion of Segregation (5-0)
- Increased Costs to State (5-0)
- Educational Program (3-2)
- Increased Property Values (5-0)

The County Committee found that the remaining two conditions are **not** substantially met by the following vote:

- Increased school facilities costs (4-1)
- Financial Effects (3-2)

7.0 STAFF RECOMMENDED AMENDMENTS TO THE PETITION

The SBE has authority to make certain amendments to a proposal to reorganize school districts. If the petition continues to move forward once CEQA is satisfied, the CDE would recommend the following amendments:

7.1 Article 3 Amendments

Petitioners may include, and county committees or the SBE may add or amend, any of the appropriate provisions specified in Article 3 of the *EC* (commencing with Section 35730). These provisions include:

Membership of Governing Board

The governing board of the Bonsall Unified SD (if approved) would have five members as proposed in the petition.

Trustee Areas

The proposal for unification may include a provision for establishing trustee areas for the purpose of electing governing board members of the unified district. No provision regarding trustee areas for governing board elections is included in this proposal. Therefore, governing board members of the Bonsall Unified SD (if approved) will be elected at large.

Election of Governing Board

A proposal for unification may include a provision specifying that the election for the first governing board be held at the same time as the election on the unification of the school district. The *EC* also requires that, if this provision is included, the proposal specify the method whereby the length of the initial terms may be determined so that the governing board will ultimately have staggered terms that expire in years with regular election dates (*EC* Section 35737).

Therefore, as specified in the petition and proposal, the election of the first governing board shall be held at the same time as the election for reorganization of the school districts. The method whereby the length of the initial terms shall be determined so that the governing board will ultimately have staggered terms that expire in years with regular election dates follows:

> The three governing board candidates receiving the highest number of votes will have four-year terms and the two candidates receiving the next highest number of votes will have two-year terms.

Computation of Base Revenue Limit

A proposal for reorganization of school districts must include a computation of the base revenue limit per ADA for each reorganized district. CDE staff has estimated that the revenue limit per ADA for the proposed Bonsall Unified SD is $5,224, based upon 2009–10 data. Should the proposed district become effective for all purposes, the revenue limit will be adjusted using information based on second prior fiscal year data (e.g., 2010–11 for a July 1, 2012, effective date), including any adjustments for which the proposed district may be eligible.

Division of Property and Obligations

As indicated in section 5.3 of this attachment, the CDE finds that existing provisions of the *EC* may be utilized to achieve an equitable distribution of property, funds, and obligations (other than real property) of the Fallbrook Union HSD. The CDE recommends the following:

(a) All assets (other than real property) and liabilities (other than bonded indebtedness) of the Fallbrook Union HSD shall be divided based on the proportionate ADA of high school students residing in the areas of the two affected districts on June 30 of the school year immediately preceding the date on which the proposed unification becomes effective for all purposes (*EC* Section 35736).

(b) The affected districts will negotiate the value and disposition of Fallbrook Union HSD's undeveloped 50-acre parcel as an asset of real property as discussed in Section 5.3 of this attachment.

(c) Student body property, funds, and obligations shall be divided proportionately, except that the share shall not exceed an amount equal to the ratio which the number of pupils leaving the schools bears to the total number of pupils enrolled; and funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided (*EC* Section 35564).

(d) As specified in *EC* Section 35565, disputes arising from the division of property, funds, or obligations shall be resolved by the affected school districts and the county superintendent of schools through a board of arbitrators. The board shall consist of one person appointed by each district and one by the county superintendent of schools. By mutual accord, the county member may act as sole arbitrator; otherwise, arbitration will be the responsibility of the entire board. Expenses will be divided equally between the districts. The written findings and determination of the majority of the board of arbitrators is final, binding, and may not be appealed.

Method of Dividing Outstanding Bonded Indebtedness

No public school equipment or improvements (buildings) owned by the Fallbrook Union HSD are located within the boundaries of the proposed Bonsall Unified SD. Thus, the new district will have no responsibility for any outstanding bonded indebtedness in the Fallbrook Union HSD (*EC* Section 35576).

Section 5.3 of this attachment contains a discussion of the effect on the tax rate for bond interest and redemption on the outstanding bonded indebtedness of the Fallbrook Union HSD without Bonsall Union SD's AV. The CDE concludes that the projected annual increase of approximately $10.25 per $100,000 of AV (48 percent) for the payment of high school bonds is not substantial.

Moreover, the SBE may add a provision to the unification proposal (pursuant to *EC* Section 35738) to reduce any increase in property tax payments in the remaining Fallbrook Union HSD. Section 35738 allows a more equitable method of allocating bonded indebtedness than is provided by *EC* sections 35575 and 35576. Such a method could ensure that the property owners in the current Bonsall Union SD would retain an equitable obligation for the outstanding bonded indebtedness of the Fallbrook Union High SD after unification.

7.2 Area of Election

Determination of the area in which the election for a reorganization proposal will be held is one of the provisions under *EC* Article 3 (commencing with Section 35730) that the SBE may add or amend.

The plans and recommendations to reorganize districts may specify an area of election, but specification of an election area is not required (*EC* Section 35732). If a plan does not specify the area of election, the statute specifies that "the election shall be held only in the territory proposed for reorganization." Thus, the area proposed for reorganization is the "default" election area. The SBE may alter this area, but the alterations must comply with the "Area of Election Legal Principles" below.

Area of Election Legal Principles

In establishing the area of election, the CDE and SBE follow the legal precedent set by the California Supreme Court in *Board of Supervisors of Sacramento County, et al. v. Local Agency Formation Commission* (1992) 3 Cal. 4th 903 (the *"LAFCO"* decision). *LAFCO* holds that elections may be confined to within the boundaries of the territory proposed for reorganization (the "default" area), provided there is a *rational basis* for doing so. *LAFCO* requires we examine (1) the public policy reasons for holding a reorganization election within the boundaries specified; and (2) whether there is a genuine difference in the relevant interests of the groups that the election plan creates (in this situation, the analysis examines the interests of voters in the territory of the Bonsall Union SD and those that will remain in the Fallbrook Union HSD.

The reduced voting area must have a fair relationship to a legitimate public purpose. State policy favors procedures that promote orderly school district reorganization statewide in a manner that allows for planned, orderly community-based school systems that adequately address transportation, curriculum, faculty, and administration.

In the opinion of the CDE, the proposed reorganization, based on the information provided, meets the *LAFCO* rational basis test for an area of election less than the total area of the districts affected.

Finally, discussion of other judicial activity in this area is warranted. In a case that preceded *LAFCO,* the California Supreme Court invalidated an SBE reorganization decision that approved an area of election that was limited to the newly unified district. As a result, electors in the entire high school district were entitled to vote (*Fullerton*). The *Fullerton* court applied strict scrutiny and required demonstration of a compelling state interest to justify the exclusion of those portions of the district from which the newly unified district would be formed.

The *Fullerton* case does not require that the SBE conduct a different analysis than that described above. The *LAFCO* decision disapproved the *Fullerton* case, and held that absent invidious discrimination, the rational basis approach to defining the election area applied. In this matter, no discrimination, segregation, or racial impacts were identified. Accordingly, the *LAFCO* standard and analysis applies.

CDE Recommendation for Area of Election

The CDE found no substantial effects from reorganization on voters in the remaining Fallbrook Union HSD. Therefore, if the SBE approves the unification proposal, the CDE recommends the SBE establish the Bonsall Union SD as the area of election.

8.0 STATE BOARD OF EDUCATION RESPONSIBILITIES UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

In *Fullerton,* the Supreme Court held that reorganization of school district boundaries is a project within the scope and meaning of CEQA and that the SBE, as the state agency making the ultimate decision prior to the election for the formation of a new school district, is the lead agency. As such, the SBE is required to consider the impact of reorganization on the environment, *prior* to approving the formation of the new district, particularly where the reorganization will require construction of a new school (as in *Fullerton* and, as in this case, construction of a new high school—see Section 5.7 of this attachment).

There are three basic components for complying with CEQA (*PRC* Section 21000 et seq.). First, the lead agency must determine if the reorganization is exempt from CEQA. Second, the lead agency must conduct an initial study to determine whether the proposed project (i.e., reorganization) may have a significant impact on the environment. Third, the lead agency files a negative declaration of environmental impact or completes an EIR depending on the findings of the initial study.

If the lead agency determines that there may be a significant effect on the environment, it must prepare or have prepared an EIR before it considers the proposed project (14 *CCR*, Section 15000 et seq.). The lead agency may approve a project in spite of a significant effect on the environment, but it must consider those implications in making its decision.

Since *Fullerton*, the CDE has provided the fiscal and staffing resources necessary to carry out the required actions of the SBE as lead agency in the CEQA process. Initially, compliance with CEQA involved minimal resources (staff time and funding). However, relatively recent court rulings (*Communities For a*

Better Environment v. California Resources Agency 103 CAL.App.4th 98, 125[2] and litigation involving the CDE and the SBE regarding the CEQA process)[3] have resulted in a significant increase in the expenditure of CDE resources on the CEQA process. Reductions in CDE budget and staffing levels have resulted in the CDE being unable to continue performing the SBE's role as lead agency for CEQA.

Thus, if the SBE determines it may approve this proposal, it will need to arrange for a CEQA review for the proposed new school district (for which it is the lead agency) prior to approving the proposal.

9.0 STATE BOARD OF EDUCATION OPTIONS AND RECOMMENDED ACTION

9.1 SBE Options

Approval by the SBE is discretionary, and as such the SBE has the following options:

(a) The SBE may disapprove the proposal regardless of whether it finds that all of the conditions in *EC* Section 35753(a) have been substantially met.

(b) The SBE may review the proposal to determine:

(1) If all the conditions in *EC* Section 35753(a) have been substantially met, or

(2) If the conditions in *EC* Section 35753(a) are not substantially met, but it is not possible to apply those conditions literally and an exceptional situation exists pursuant to *EC* Section 35753(b).

(c) If, after the review the SBE considers approving the formation of the proposed district, the next step is to ensure that the provisions of CEQA are completed, including an Initial Study and, if

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[2] In 1998, the California Resources Agency amended *CCR*, Title 14, Section 15378, to remove reorganizations of a school district from the definition of a project. Filing of CEQA documents was not required under this amendment. However, in October 2002, the Third District Court of Appeals invalidated the 1998 regulation amendment (*Communities For a Better Environment v. California Resources Agency* 103 CAL.App.4th 98, 125). In July 2003, the invalidated regulation was repealed.

[3] A proposal to form a Wiseburn Unified School District (in Los Angeles County), along with a CEQA item, was considered at the SBE's September 2004 meeting. After the SBE approved the unification, the affected high school district filed legal action alleging the CEQA study for the proposal was inadequate. The court issued a preliminary injunction, enjoining further action on the proposal. The SBE and the CDE determined that the environmental review was not compliant with CEQA and the SBE rescinded its prior decision to approve the unification.

recommended by the Initial Study, an EIR (see flowchart and accompanying description in this item). Alternatives toward that end include:

(1) If sufficient SBE funds are available, contracting with the Department of General Services (DGS) to conduct the environmental studies, or

(2) If sufficient funds are not available, requesting funds through the legislative process to conduct the environmental studies, or

(3) Pursuant to Section 21089 of the *PR*C, charging and collecting reasonable fees from the person proposing the project, in this case, the individual citizen petitioner(s), for the costs associated with the environmental studies, or

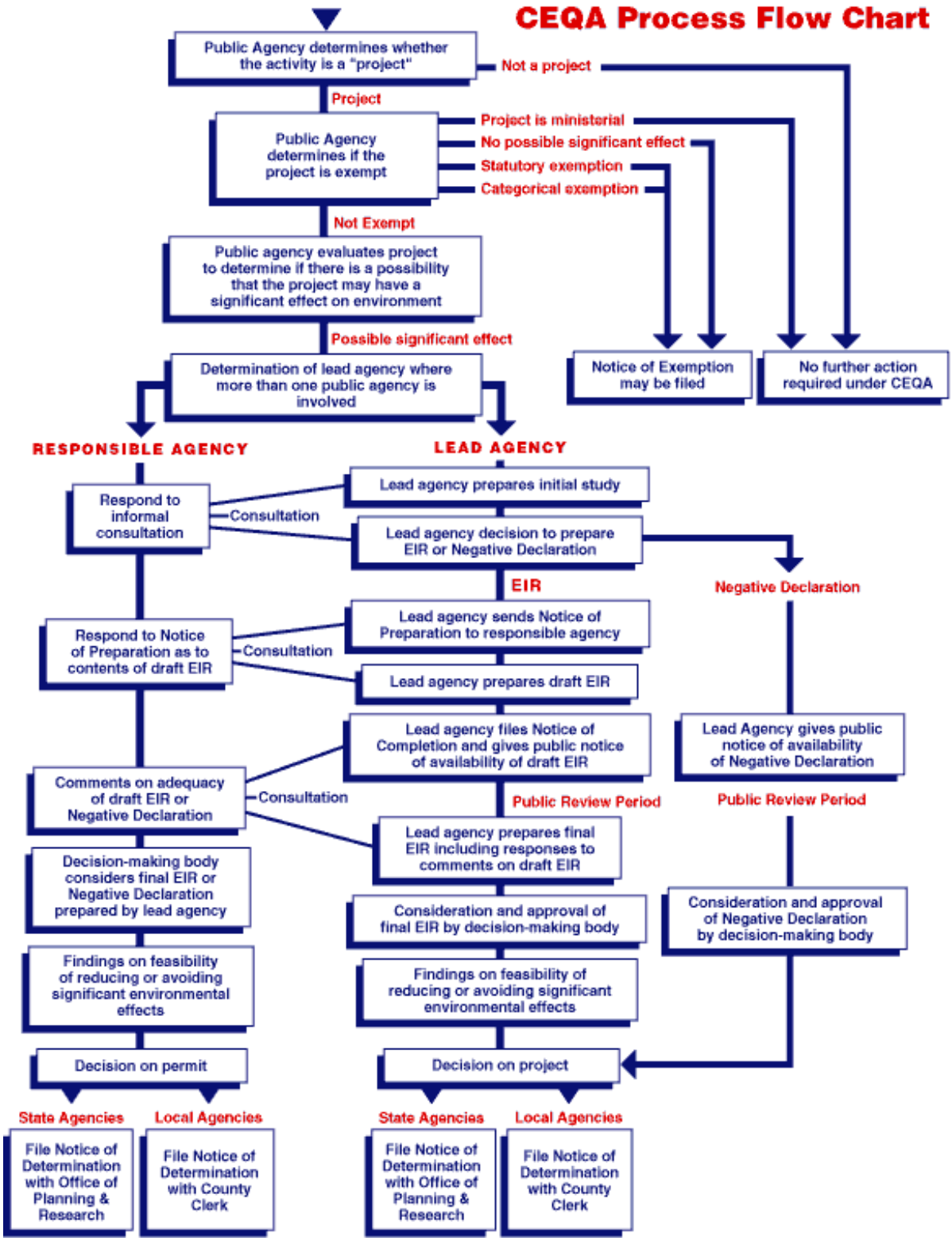
(4) Accepting reasonable fees provided by another source, such as the school district (the Bonsall Union SD in this case), on behalf of the petitioners.

(5) Disapproving the proposed unification if it is unable to collect the fees allowed by *PR*C Section 21089.

9.2 Recommended Action

The CDE recommends that the SBE (1) consider the merits of this unification proposal as the first step of the decision process; and (2), if it determines the proposal would justify approval, to either conduct or secure a contract with another entity to conduct an Initial Study pursuant to CEQA guidelines and, if warranted by the Initial Study, to either conduct or secure a contract with another entity to conduct an EIR. After the SBE completes the necessary reviews of the proposal pursuant to CEQA guidelines, the SBE may, if it chooses to do so, approve the unification proposal. This recommendation is based on CDE's analysis that finds the unification proposal substantially meets all nine required conditions of *EC* Section 35753(a).

California Natural Resources Agency



Source: http://www.ceres.ca.gov/ceqa/flowchart/
The CEQA Process Flowchart was created under the direction of the Resources Agency's General Counsel and through the assistance of the McGeorge School of Law Clinical Program.

Racial/Ethnic Report on Formation of a New Unified School District from the Bonsall Union Elementary School District and that Portion of the Fallbrook Union High School District in San Diego County

Background

The San Diego County Committee on School District Organization (County Committee) recommends that the State Board of Education (SBE) approve a citizens' petition to create a Bonsall Unified School District (SD). Specifically, the proposal would remove the territory within the boundaries of the Bonsall Union SD from the Fallbrook Union High School District (HSD) and create the new unified school district from that territory. All students (kindergarten through twelfth [K-12] grade) residing within the Bonsall Union SD would become students of the new unified school district.

The proposed district contains three regular schools—kindergarten through fifth grade (K–5) Bonsall Elementary and Bonsall West Elementary and sixth through eighth grade (6–8) Norm Sullivan Middle. The K–5 Vivian Banks Charter School (enrollment 118) is also located in the Bonsall Union SD. No high school facilities are located in the proposed district, but the district would become responsible for the education of more than 500 nine through twelfth grade (9–12) students who reside within the boundaries of the Bonsall Union SD.

Before recommending that the SBE approve the formation of a Bonsall Unified SD, the County Committee was required to determine if the proposal substantially meets a number of conditions including the following:

> The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation (California *Education Code* [*EC*] Section 35753[a][4]).

To analyze the effects of the proposed unification, the County Committee commissioned a study: "A Report on the Study of Feasibility of Formation of the Bonsall Unified School District," December 2007 (Feasibility Study). That study contained the following conclusion:

> "The maximum percent change for any one ethnic category is 3.14 percent, an amount not considered significant by any known standard," and this condition would be substantially met.

The County Committee voted unanimously (5 to 0) that the proposed formation of a Bonsall Unified SD substantially meets the *EC* Section 35753(a)(4) condition.

Following is a racial/ethnic report regarding the proposal to form a Bonsall Unified SD from territory of the Fallbrook Union HSD that is within its component Bonsall Union SD, prepared by the California Department of Education (CDE).

Criteria by which the unification proposal was evaluated

Pursuant to *EC* Section 35753(a)(4), a proposal to reorganize a school district may be approved if it is substantially determined that it would not promote racial or ethnic discrimination or segregation. Section 18573 of Title 5, *California Code of Regulations* (5 *CCR*), requires five factors to be considered in determining whether a school district reorganization would promote racial or ethnic discrimination:

- The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.

- The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the total district, and in each school, of the affected districts.

- The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.

- The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.

- The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

Each of these factors will be evaluated in light of available information, including information derived from the California Basic Educational Data System (CBEDS).

Discussion and Analysis

1. Current Racial/Ethnic Enrollment: District Level Analysis

Tables 1a and 1b depict current racial/ethnic enrollment and percentages in the Fallbrook Union HSD and Bonsall Union SD.

Table 1a. Racial/ethnic enrollment within the existing districts

	African American	Asian	Filipino	Hispanic	Other*	White	Multiple or no response	Total
Bonsall Union SD	53	49	44	621	118	1,061	31	1,977
Fallbrook Union HSD	45	45	31	1,604	50	1,063	164	3,002

Source: CBEDS, 2009–10.
* "Other" includes American Indian or Alaska Native and Native Hawaiian or Pacific Islander. This will be the case for the entire report.

As indicated in Table 1a, the existing Fallbrook Union HSD enrolls 2,970 9–12 students, while the Bonsall Union SD enrolls 1,867 K-8 students.

Table 1b. Percent racial/ethnic enrollment within the existing districts

	African American	Asian	Filipino	Hispanic	Other	White	Multiple or no response	Total
Bonsall Union SD	2.7%	2.5%	2.2%	31.4%	6.0 %	53.7%	1.6%	100.1%
Fallbrook Union HSD	1.5%	1.5%	1.0%	53.4%	1.6%	35.4%	5.5%	99.9%

Source: CBEDS, 2009–10.

Table 1b shows a total combined minority enrollment in the Bonsall Union SD of 44.8 percent compared to a 53.7 percent White enrollment. The total combined minority enrollment in the Fallbrook Union HSD is 59.0 percent compared to a 35.4 percent White enrollment.

2. Minority Enrollment in Proposed Unification: District Level Analysis

Table 2 depicts racial ethnic percentages of the proposed Bonsall Unified SD and the remaining Fallbrook Union HSD.

Table 2. Minority student enrollment

	Minority	White
Proposed Bonsall Unified SD	46.8%	52.0%
Remaining Fallbrook Union HSD	60.4%	33.5%

Source: CBEDS, 2009–10, County Committee Feasibility Study, and Fallbrook Union HSD.

The percentages in the above table update the 2007 Feasibility Study information with the latest CBEDS data available and data provided by the Fallbrook Union HSD. The minority student population is projected to be 49.0 percent in the new unified district and 57.0 percent in the remaining Fallbrook Union HSD.

3. Racial and Ethnic Enrollment: Trends and Rates of Change

The following tables depict five-year trends and rates of change in enrollment within each racial/ethnic group for the Fallbrook Union HSD and the Bonsall Union SD.

Table 3a. Fallbrook Union HSD historical enrollment

	African American	Asian	Filipino	Hispanic	Other	White	Multiple or no response	Total
2005–06	54	37	26	1,308	54	1,447	180	3,106
2006–07	52	37	30	1,343	54	1,430	154	3,100
2007–-08	62	45	33	1,405	76	1,334	151	3,106
2008–09	70	51	33	1,465	62	1,289	147	3,117
2009–10	45	45	31	1,604	50	1,063	164	3,002
Percent Change	-16.7%	21.7%	19.2%	22.6%	-7.4%	-26.5%	-0.9%	-3.3%

Source: CBEDS.

Table 3b. Bonsall Union SD historical enrollment

	African American	Asian	Filipino	Hispanic	Other	White	Multiple or no response	Total
2005–06	41	42	20	681	130	973	1	1,888
2006–07	48	46	31	648	132	919	6	1,830
2007–-08	49	49	42	667	132	955	14	1,908
2008–09	38	51	41	643	113	981	14	1881
2009–10	53	49	44	621	118	1,061	31	1,977
Percent Change	29.3%	16.7%	120%	-8.8%	-9.2%	9.0%	300%	4.7%

Source: CBEDS.

Over the past five years, the Fallbrook Union HSD had a 3.3 percent decrease in student enrollment, resulting mainly from a 26.5 percent decline in the White population.

In the Bonsall Union SD, enrollment of all ethnic groups except Hispanic increased, along with an overall increase in total enrollment of nearly 5 percent.

Tables 3c and 3d provide a historical look at ethnic student populations as percentages of total student enrollment for both the Fallbrook Union HSD and the Bonsall Union SD.

Table 3c. Fallbrook Union HSD historical enrollment percentages

	African American	Asian	Filipino	Hispanic	Other	White	Multiple or no response	Minority
2005–06	1.7%	1.2%	0.8%	42.1%	1.8%	46.6%	5.8%	47.6%
2006–07	1.7%	1.2%	1.0%	43.3%	1.3%	46.1%	5.0%	48.9%
2007–-08	2.0%	1.4%	1.1%	45.2%	2.4%	42.9%	4.9%	52.2%
2008–09	2.2%	1.6%	1.1%	47.0%	2.0%	41.4%	1.5%	57.1%
2009–10	1.5%	1.5%	1.0%	53.4%	1.6%	35.4%	5.5%	59.1%

Source: CBEDS.

Table 3d Bonsall Union SD historical enrollment percentages

	African American	Asian	Filipino	Hispanic	Other	White	Multiple or no response	Minority
2005–06	2.2%	2.2%	1.1%	36.1%	6.9%	51.5%	.1%	48.4%
2006–07	2.6%	2.5%	1.7%	35.4%	7.2%	50.2%	.3%	49.5%
2007–-08	2.6%	2.6%	2.2%	35.0%	6.9%	50.1%	.7%	49.2%
2008–09	2.0%	2.7%	2.2%	34.2%	6.0%	52.2%	.7%	47.1%
2009–10	2.7%	2.5%	2.2%	31.4%	6.0%	53.7%	1.7%	44.6%

Source: CBEDS.

In the Fallbrook Union HSD, minority student enrollment increased by 11.5 percent (primarily as a result of the 11.3 percent increase in Hispanic students), while the percent of White students decreased by 11.2 percent.

The Bonsall Union SD minority enrollment decreased by 3.8 percent, while the White enrollment increased by 2.2 percent—changes considered statistically insignificant.

4. Minority Student Enrollment: Projections

This section projects the percentage of minority student enrollment in the Fallbrook Union HSD and the Bonsall Union SD assuming the proposed unification does not occur. The tables in Section 3 provide the percentage growth for the racial/ethnic groups in each of the affected districts. These percentages are aggregated in the following table to obtain a combined percentage growth of the minority student population in the affected districts. The percentages are based on growth over the previous five-year period.

Table 4a. District minority student enrollment percentage growth

	Minority	White
Bonsall Union SD	-3.2%	9.0%
Fallbrook Union HSD	20.0%	-26.5%

Source: CBEDS.

Table 4b depicts the projected percentages of minority students in each of the affected districts five years in the future. Percentages are calculated by multiplying the current enrollment figures by the percentage growth values from the previous five-year period.

Table 4b. Projected district minority student enrollment

	Minority	White
Bonsall Union SD	36.7%	63.3%
Fallbrook Union HSD	73.2%	26.8%

Source: CBEDS, 2009–10.

Projections in the above table show that the Fallbrook Union HSD will be a 73.2 percent minority district in five years if the proposed unification does not occur, while the Bonsall Union SD will have a minority enrollment of 36.7 percent.

5. Effects of Unification on Minority Student Enrollment

As shown in Table 2, the projected minority student enrollment in the new unified school district is 8.0 percent less than the minority student enrollment in the remaining Fallbrook Union HSD. Table 5 summarizes the effects of unification due to the proposed unification.

Table 5. Effects of unification on district minority student enrollment

	% Minority before Unification	% Minority after Unification
Bonsall Union SD	44.6%	
Proposed Bonsall Unified SD		46.8%
Fallbrook Union HSD	59.1%	60.4%

Source: CBEDS, 2009–10 and County Committee Feasibility Study.

As can be seen in the above table, no substantial changes in enrollment patterns due to the proposed unification are expected. The minority student population in the proposed new Bonsall Unified SD would increase from 44.6 percent (elementary students of area) to 46.8 percent, while the percentage of minority students in the remaining Fallbrook Union HSD would increase from 59.1 percent to 60.4 percent.

6. School Board Policies: Desegregation Plans and Programs

None of the available information indicates the proposed reorganization would have an adverse effect on the duty of the governing boards of the affected districts to adopt and implement plans or programs for equal educational opportunities. Generally, the proposal is not expected to have a statistically significant effect on

racial/ethnic enrollment at the single comprehensive high school in the Fallbrook Union HSD or the existing schools in the Bonsall Union SD—one 6-8 middle and three K–5 schools (one each in Pala [charter], Bonsall, and Oceanside).

7. Factors Affecting Feasibility of Integration

Based on the available data, the proposed reorganization would not have a significant impact on the distribution of students throughout the districts.

8. Duty to Alleviate Segregation

The governing boards of school districts have a duty to alleviate segregation, regardless of the cause. In this case, the districts are not segregated and would not become so because of the reorganization.

Summary Statement: Findings of Fact

Currently, the Fallbrook Union HSD is 56.6 percent minority, and the Bonsall Union SD is 47.5 percent minority. The historical five-year trends show the minority student enrollment in the Fallbrook Union HSD increasing throughout the period, while minority enrollment in the Bonsall Union SD began to decrease in the last year of the five-year trend. The proposal would remove approximately 514 students—plus those with a multi or no racial/ethnic designation—from the Fallbrook Union HSD, but the new and remaining district would continue to have relatively the same minority student compositions they have now. The remaining Fallbrook Union HSD would be 57.0 percent minority, and the proposed unified district would be 49.0 percent minority. Without unification, the Fallbrook Union HSD is projected to be 64.3 percent minority in five years and the Bonsall Union SD 43.5 percent minority, based on the historical five-year trends.

Conclusion

Currently, the Fallbrook Union HSD and the Bonsall Union SD are not segregated districts based on SBE guidelines, and the percentage change in minority students in both the remaining Fallbrook Union HSD as well as in the proposed unified district are statistically insignificant.

Given the above findings of fact, the CDE recommends that the proposal to form a Bonsall Unified SD substantially complies with *EC* Section 35753(a)(4).

California Department of Education

M e m o r a n d u m

Date: March 15, 2010

To: Scott Hannan

From: Kathleen Moore

Subject: Bonsall USD/Fallbrook UHSD Reorganization

The School Facilities Planning Division (SFPD) has reviewed the analysis prepared by the San Diego County Committee on School District Reorganization (Committee) regarding the creation of the Bonsall Unified School District (BUSD) from a portion of the Fallbrook Union High School District (FUHSD). Specifically, the SFPD has evaluated if the reorganization will create a significant increase in school facilities costs.

The creation of the new BUSD would require the BUSD to create high school capacity for the approximately 526 current high school students attending FUHSD as well as an additional 279 projected students over the next 25 years.

The Committee analysis estimates that new development within the remaining boundaries of the FUHSD would generate 268 students over the next 20 years and this would off-set part of the 526 students transferred to the BUSD. The difference between the 526 current Bonsall students and the projected future students in the remainder of the FUHS is 243 students, and the Committee report defines this as “duplicative capacity”. That is, even after 20 years, 243 seats in the FUHSD now occupied by high school students residing in the reorganization area would remain vacant. The report calculates the cost of providing the duplicative seats a $10.7 million.

The Committee report, however, does not discuss the 33 portables currently on Fallbrook High School. Thus, FUHSD may adjust its portable inventory accordingly over the next 20 years to account for the transfer of the Bonsall students. This has an additional benefit of reclaiming field and hard-court area now occupied by portable classrooms.

The minutes of the August 6, 2007, meeting of the Committee includes testimony from the FUHSD officials that a future high school is planned in the FUHSD. If the BUSD were to provide facilities for the 526 current and 279 future students in the proposed BUSD boundaries, the size and cost of a new high school in the remaining FUHSD would be reduced.

The creation of duplicative seats is incidental to the creation of a new unified school district in which a high school is not located. The estimated costs of duplicative seats is off-set by the ability of the FUHSD to both reduce its portable inventory and reduce the scope of proposed new high school facilities. Therefore, the SFPD concludes that the cost to provide facilities is incidental and insignificant.

PETITION LANGUAGE

To: Rudy M. Castruita, County Superintendent of Schools
6401 Linda Vista Road, San Diego CA 92111-7399

WE, the undersigned registered electors of the Bonsall Union School District, in accordance with the provisions of section 35700(a) of the Education Code of the state of California, do, hereby petition the County Superintendent of Schools for the unification of the territory of the Bonsall Union School District as described In the attached legal description.

Unification is the formation of a "Bonsall Unified School District" to serve the needs of all students, kindergarten, through twelfth grade, along the current boundary lines of the present Bonsall Union School District. The governing board of the proposed unified school district will have five (5) members who are ejected by the registered voters of the proposed district. Election of the Trustees will be concurrent with the unification election, and shall be conducted at large.

The undersigned request the formation of the unified school district for the following reasons:

1. We desire to establish a unrifled school district that will be responsive to the unique needs of our rural and geographically isolated student population.
2. We desire to provide a coordinated, sequential educational program for our children from preschool through twelfth grade.
3. We believe unification will increase collaboration between elementary staff, secondary staff, and the community in our pursuit of national, state, county, and local educational goals.
4. We believe that unification will provide a more effective use of district resources.
5. We believe it is necessary to unify to provide safe and effective services in the specific areas of health care, child nutrition, and special services.
6. We desire a unified educational system whereby educational expectations and accountability are driven by a single Board of Trustees and a single administration representing the Bonsall community.

For the purpose of receiving notice of any public hearings to be held on this petition, the following petitioners are designated as "chief petitioners":

1. Sharon		Fallbrook, CA 92028
2. Jennifer		Fallbrook, CA 92028
3. Darlene		Fallbrook, CA 92028

NOTICE TO THE PUBLIC
THIS PETITION MAY BE CIRCULATED BY A PAID-SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

Description of Educational Programs from the
"Bonsall Union School District Area Unification Proposal Facilities Plan"
April 8, 2010

Following are pages 4-8 from the "Bonsall Union School District Area Unification Proposal Facilities Plan":

The educational program of Bonsall High School will be aligned with a College and Career direction, and supporting a non-traditional approach to help students through the University of California's A-G requirements and Career Technical Education.

The "Integrated Learning Environment" (ILE) is a vital part of the Bonsall Union School District's strategic plan (attached) to reach its vision/mission of "Academic Excellence and Support for All Students". The ILE not only integrates learning among our school and home environments, it also integrates with other strategic plan strategies such as Governance Alignment, Math Proficiency, Response to Intervention, Implementing the English Learner Master Plan, and a District-Wide Writing Program.

The Integrated Learning Environment (ILE) focuses technology in three areas: assessment (formative and student-centered), differentiation of instruction (game oriented, web-based computer applications), and extended learning (a cloud-based portal for 24/7 access). Using the Measurement of Academic Progress (MAP) testing application for formative assessment, and end - of - course exams, teachers and students identify academic strengths and weaknesses early in the school year, instead of teachers having to wait until they cover an academic topic to assess and identify a need.

A more proactive collaboration for an Individualized Learning Plan (ILP) to address the students' needs allows the teacher and student to better customize the learning process. This process is enhanced by computer applications that differentiate learning and focus on accelerating areas of relative weakness using game-based practice, reinforcing conceptual development. Our students focus attention on computer instruction, and games that provide immediate feedback and elevated challenge, far longer than on classroom teacher instruction.

Using the ILE's cloud-based portal, students have 24/7 access to the web-based, game oriented applications wherever they can access the Internet. Students don't learn at the same rate and this allows extra time for those students who need it. It also provides extra time for the high achievers to learn at their rate too, without being held back by their class' average learning needs. This use of the ILE has helped our Sullivan Middle School to be one of only three middle schools in California to exit Program Improvement this year. The reason Sullivan was placed in Program Improvement was due to the low math scores of the English Learner sub group population. Decidedly reversing this trend using the ILE also shows its ability to help close the achievement gap between whites and English Learners; last year's growth in the Academic Performance Index (API) scores for whites was 19 points, and for English Learners it was 51 points!

The ILE's integration with the Governance Alignment and Math Proficiency strategic plan strategies resulted in the Board of Trustees passing a policy that mandated a middle school math support elective for any student not proficient in math. Sullivan Middle School has a

renowned Show Choir and band electives that are very popular, and many previously unmotivated, low performing students began to self assess their proficiency levels and use the web-based applications to improve their math performance. The California Standards Test (CST) scores were part of the decision, but formative assessments from Study Island and MAP scores allowed for students to demonstrate proficiency at the end of each trimester so they could transfer out of the math support elective into other elective choices.

The new national core standards appear to be moving the emphasis on algebra to the ninth grade, but currently Sullivan Middle School has met the Annual Yearly Progress goals for algebra, and our intention to emphasize Science, technology, engineering and math in our secondary education programs will continue to emphasize algebra at the eighth grade. Geometry, algebra trigonometry, and calculus will be offered at Bonsall High School.

The ILE increases extending learning beyond the class time through greater access to web-based applications and a cloud-based portal. Another example of this is our foreign language Rosetta Stone elective that offers not only a teacher assisted Spanish class but several other languages as well. In special education, BrainWare Safari, an award winning web-based computer application designed to increase a student's ability to concentrate has teachers reporting great learning, behavior, and student enthusiasm for the program. In a sixth grade math class, the teacher had a contest to see who could gain the greatest proficiency using Study Island, a web-based, game oriented computer application. The student that won was exceptionally ahead of the rest of the class, and when the teacher asked him how he had won so convincingly, the other students shouted, "He has an iphone!" Innovative use of technology will be a cornerstone of Bonsall High.

In a development planned to begin in the next 2-3 years, Palomar College will be across the street from the future site of a Bonsall School. We are exploring the possibility of this becoming a future site of a high school using a 2 plus 2 program where students in high school can graduate with up to two years of college credit. With an increased use of technology to serve the digital learner, our educational program will be flexible enough to adapt to a variety of settings.

A collaborative, differentiated, extended learning time model of the ILE supported in our non traditional approach shows that working harder doesn't get better returns than working smarter.
The computer assisted, student-centered formative assessments and web-based, game oriented differentiated instruction are affecting students by making them more accountable and excited by immediate feedback of learning. The extended learning time provided by the cloud/portal will affect teaching and learning by going away from the one-size-fits-all homework assigned by teachers to a differentiated homework model provided by the web-based applications that focus learning time at the instructional level of the learner. Also, students don't have to be at school to receive instruction or guided practice; they can continue learning on their own time.

The Bonsall Union School District's educational program has shown great results as shown below:

I. 08-09 Academic Performance Index (API)

   A. District-wide 35 point growth (7x the growth target), but also closing the achievement gap as evidenced below:
      1. Students with disabilities = 39 point growth
      2. Socioeconomically disadvantaged = 47 point growth
      3. English Learners = 48 point growth (24% of students are ELs)
   B. Individual School API growth results:
      1. Bonsall Elementary = 41 points
      2. Sullivan Middle = 37 points
      3. Vivian Banks Charter = 30 points
      4. Bonsall West Elementary = 7 points (The lack of relative growth at this school validates the ILE even more because it was primarily due to dismal results in two classes taught by long-term subs that had not received ILE training)

II. 08-09 California Standards Test Growth District Average

   A. 12 point in Math
   B. 7 point English Language Arts

III. Combining API and CST growth scores, Bonsall USD led San Diego County in growth of overall student achievement.

IV. Sullivan Middle School was one of only three middle schools in California to exit Program Improvement this past year

V. Middle school student survey results indicated more time with computers was one of the top three reasons for their increased learning.

The San Diego County Office of Education's Classroom of the Future Foundation has selected the Bonsall Union School District's Integrated Learning Environment to receive one of its Innovation in Education Awards for Achievement.

Fallbrook High does not have such a track record of improvement, and by applying similar nontraditional approaches at the high school level, Bonsall will continue to provide academic excellence and support for all students through grade twelve.

Facilities Education Plan and Curricular Considerations
There are plenty of buildings (ten extra buildings) at the Sullivan Middle School Site for the core educational program.

Science is intended to be a major emphasis at Bonsall High School (BHS). With a first year transition into ninth grade, Physics will be introduced, then Chemistry in tenth grade, Biology

in eleventh grade, and Earth Sciences in the twelfth grade. Investigation and experimentation will be the cornerstone of the Science program with a great dependence on virtual labs to allow greater experimentation without increasing safety risks. The science lab is already equipped with science demonstration and safety equipment and is located next door to one of the three computer labs at Sullivan Middle School (SMS).

Although currently SMS has a Similar Schools rank of 7, its recent 37-point increase in API will improve that ranking by the end of April, 2010. It should be noted that Science is the relatively highest performing area of Sullivan Middle School's California Standards Test (CST) performance. Also, The Superintendent of the Bonsall Union School District is a Member of Board of Directors of the San Diego Science Alliance, with connections to many scientific corporations and labs. Using the Alliance to increase student understanding of the application of science, technology, engineering and math in everyday life as well as in our future will be accomplished through partnerships with various elements of the science field, field trips like the High Tech Fair held recently by the San Diego Science Alliance recently attended by Sullivan Middle School students, and virtual connections to the science industry.

One such science connection will be developing relationships with the horticulture industry that is a vibrant part of the Bonsall community. A major part of the science curriculum will also be the Futures Channel, with the goal of using new media technologies to create a channel between the scientists, engineers, explorers and visionaries who are shaping the future, and Bonsall's learners who will one day succeed them.

Mathematics is a focus area of BUSD; one of the system strategies of the strategic plan of the BUSD is "Math Proficiency". There are ample classrooms to offer geometry to our ninth graders, algebra II to our tenth grade, and trigonometry or calculus to our eleventh and twelfth grade students. This is another area of the curriculum where we expect our Integrated Learning Environment to provide the ability to offer on-line courses to increase the collaborative nature of the pedagogy of higher level mathematics, and integration with science. As with most of our classrooms, math classes will contain furniture that is more mobile that traditionally used, in order to encourage various groupings of students for differentiated instruction.

Reading/Language Arts will continue to increase their growth because BUSD also has ample classroom space for English classes on the middle school site, a library, and three computer labs for reference work. "District-Wide Writing Program" is another system strategy of the strategic plan of BUSD. Writing across the curriculum will be an emphasis articulated throughout the grade levels.

Health Education at Bonsall High School is considered an essential discipline and learning opportunities that engage students as active learners will be designed to emphasize essential concepts such as the relationship between behavior and health. By providing a foundation for BHS students to make informed decisions, they will be able to choose healthy lifestyles, products and services. The intention is to integrate nutrition and physical activity, growth and development, sexual health, injury prevention and safety, into physical education, and integrate alcohol, tobacco, and other drug use prevention, mental, personal and community health into science. With the increasing amount of brain research available, mental health will be a strong component of health education. Also, a coordination of all of the various aspects of health will take place in a fitness lab.

History/Social Sciences at Bonsall High School will begin in ninth grade with historical and social sciences analysis: chronological and spatial thinking, historical research, evidence, and point of view, as well as historical interpretation. By having the them become familiar with the writings of the founding fathers of the United States of America, students at BHS will develop a thorough understanding of the value of primary sources in developing history resources. At the same time BHS students will have technology access to become familiar with the times they study through rich media rather than textbooks only. We look forward to sharing the history of the Pala Tribe's own "Trail of Tears" and our Native American students realizing the value of the Iroquois confederacy of six nations and its impact on developing a democracy in America. The tenth grade will study world history and its influence on modern culture, the eleventh grade will study twentieth century US history, and the twelfth grade will study the principles of American democracy and economics.

Visual and Performing Arts have a very strong level of community support in Bonsall. The current choir and band program of Sullivan Middle School will be expanded with the transitioning high school. Unlike most districts, the music program has not been eliminated due to budget cuts. Currently they are housed in a doublewide portable. The award winning show choirs are a very popular elective and will be expanded for the high school. The Bonsall Education Foundation, with support from the Pala Casino, has been doing great fundraising to continue support for the improvement of the visual and performing arts in Bonsall Schools. Art as an elective at the Sullivan Middle School will also be expanded with the transition into high school grades. A kiln is to be added to the current art room.

Career Technical Education at Bonsall High School will begin at the ninth grade level with an emphasis on horticulture. A large (60x20) greenhouse will be erected on the campus area just west of the science building. The Bonsall Education Foundation runs a Farmers Market every weekend in Bonsall and has many supporters that are asking for the development of a large-scale garden operation at this school site. It will be coordinated with our Health and Fitness, and Science program as well as the District's Food Services operations. Having seven casinos within twenty-five miles, hospitality management is another elective that will be developed to provide support for the human resources needed to staff these businesses.

Special Education facilities are easily meeting the current needs of students at BUSD. A regional program for our local SELP A is located at the middle school. Our Director of Pupil Services is housed at the District Office with a separate building containing its own offices, conference, and testing rooms for Individual Education Plan (IEP) meetings that can easily meet the increased needs of Special Education for high school students.

Education Code Sections Cited in Agenda Item

15102. The total amount of bonds issued pursuant to this chapter and Chapter 1.5 (commencing with Section 15264) shall not exceed 1.25 percent of the taxable property of the school district or community college district, or the school facilities improvement district, if applicable, as shown by the last equalized assessment of the county or counties in which the district is located. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987-88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987-88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

35560. When a school district is reorganized and when the allocation of funds, property, and obligations is not fixed by terms, conditions, or recommendations as provided by law, the funds, property, and obligations of a former district, except for bonded indebtedness, shall be allocated as follows:

(a) The real property and personal property and fixtures normally situated thereat shall be the property of the district in which the real property is located.

(b) All other property, funds, and obligations, except bonded indebtedness, shall be divided pro rata among the districts in which the territory of the former district is included. The basis for the division and allocation shall be the assessed valuation of the part of the former district which is included within each of the districts.

35564. If the reorganization of a school district under this chapter results in the relocation of district boundaries so that a portion of the pupils will not be residents of the district thereafter maintaining a school previously attended by the pupils, and if there is in the school an organized student body, the property, funds, and obligations of the student body shall be divided as determined by the county committee, except that the share shall not exceed an amount equal to the ratio which the number of pupils leaving the school bears to the total number of pupils enrolled. The ownership of the property, funds, and obligations, which is the proportionate share of each segment of the student body, shall be transferred to the student body of the school or schools in which the pupils are enrolled after the reorganization. Funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided.

35565. If a dispute arises between the governing boards of the districts concerning the division of funds, property, or obligations, a board of arbitrators shall be appointed which shall resolve the dispute. The board shall consist of one person selected by each district from which territory is withdrawn pursuant to a reorganization action under this chapter, one person selected by each district of which territory has become a part pursuant to that reorganization action, and either one or two persons, such that the board of arbitrators contains an odd number of persons, appointed by the county superintendent

of schools of the county in which the districts are located. The districts involved may mutually agree that a person appointed as arbitrator by the county superintendent of schools may act as sole arbitrator of the matters to be submitted to arbitration. The necessary expenses and compensation of the arbitrators shall be divided equally between the districts, and the payment of the portion of the expenses is a legal charge against the funds of the school districts. The arbitrator or arbitrators shall make a written finding on the matter submitted to arbitration. The written finding and determination of a majority of the board of arbitrators is final and binding upon the school districts submitting the question to the board of arbitration.

35572. No territory shall be taken from any school district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the last equalized assessed valuation of a district from which the territory was taken that the outstanding bonded indebtedness of the district would exceed 5 percent of the assessed valuation remaining in the district for each level maintained, on the date the reorganization is effective pursuant to Section 35766.

35575. When territory is taken from one school district and annexed to another school district and the area transferred contains no public school property or buildings, the territory shall drop any liability for outstanding bonded indebtedness in the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of the district of which it becomes a part.

35576. (a) When territory is taken from one district and annexed to, or included in, another district or a new district by any procedure and the area transferred contains public school buildings or property, the district to which the territory is annexed shall take possession of the building and equipment on the day when the annexation becomes effective for all purposes. The territory transferred shall cease to be liable for the bonded indebtedness of the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of any district of which it becomes a part.

(b) The acquiring district shall pay the original district the greatest of the amounts determined under provisions of paragraphs (1) or (2) or the amount determined pursuant to a method prescribed under Section 35738.

(1) The proportionate share of the outstanding bonded indebtedness of the original district, which proportionate share shall be in the ratio which the total assessed valuation of the transferring territory bears to the total assessed valuation of the original district in the year immediately preceding the date on which the annexation is effective for all purposes. This ratio shall be used each year until the bonded indebtedness for which the acquiring district is liable has been repaid.

(2) That portion of the outstanding bonded indebtedness of the original district which was incurred for the acquisition or improvement of school lots or buildings, or fixtures located therein, and situated in the territory transferred.

(c) The county board of supervisors shall compute for the reorganized district an annual tax rate for bond interest and redemption which will include the bond interest and redemption on the outstanding bonded indebtedness specified in paragraph (1) or (2) of subdivision (b) or the amount determined pursuant to a method prescribed under

35700. An action to reorganize one or more districts is initiated upon the filing, with the county superintendent of schools, of a petition to reorganize one or more school districts signed by any of the following:

(a) At least 25 percent of the registered voters residing in the territory proposed to be reorganized if the territory is inhabited. Where the petition is to reorganize territory in two or more school districts, the petition shall be signed by at least 25 percent of the registered voters in that territory in each of those districts.

(b) A number of registered voters residing in the territory proposed to be reorganized, equal to at least 8 percent of the votes cast for all candidates for Governor at the last gubernatorial election in the territory proposed to be reorganized, where the affected territory consists of a single school district with over 200,000 pupils in average daily attendance and the petition is to reorganize the district into two or more districts.

(c) The owner of the property, provided that territory is uninhabited and the owner thereof has filed either a tentative subdivision map with the appropriate county or city agency or an application for any project, as defined in Section 21065 of the Public Resources Code, with one or more local agencies.

(d) A majority of the members of the governing boards of each of the districts that would be affected by the proposed reorganization.

35704. The county superintendent of schools, within 30 days after any petition for reorganization is filed, shall examine the petition and, if he or she finds it to be sufficient and signed as required by law, transmit the petition simultaneously to the county committee and to the State Board of Education.

35707. (a) Except for petitions for the transfer of territory, the county committee shall expeditiously transmit the petition to the State Board of Education together with its recommendations thereon. It shall also report whether any of the following, in the opinion of the committee, would be true regarding the proposed reorganization as described in the petition:
(1) It would adversely affect the school district organization of the county.
(2) It would comply with the provisions of Section 35753.
(b) Petitions for transfers of territory shall be transmitted pursuant to Section 35704.

35730. The plans and recommendations, in connection with the proposed formation of a new unified school district to include within its boundaries a chartered city, may provide that the establishment and existence of the governing board of the district shall be governed by the charter of the city and not exclusively by general law. Upon adoption of plans and recommendations containing such provision, the establishment and existence of the governing board of the district shall thenceforth be governed exclusively by the city charter and the board shall be a city board of education of a chartered city. In the absence of such a recommendation, the proposed new unified district shall be governed by general law.

35731. In any proposal for unification, plans and recommendations may include a provision for a governing board of seven members. In the absence of such a provision, any proposed new district shall have a governing board of five members.

35732. Plans and recommendations may include a provision specifying the territory in which the election to reorganize the school districts will be held. In the absence of such a provision, the election shall be held only in the territory proposed for reorganization.

35733. Whenever the recommendation is to divide the entire territory of an existing school district into two or more separate school districts, the recommendation may provide that the plans and recommendations be voted upon as a single proposition.

35734. The plans and recommendations may include a provision for trustee areas that provide for representation in accordance with population and geographic factors of the entire area of the district. Any provision of that kind shall also specify the boundaries of the proposed trustee areas and shall specify whether members of the governing board shall be elected by the registered voters of the entire school district or by only the registered voters of that particular trustee area. A proposal for trustee areas shall be considered as an inherent part of the proposal and not as a separate proposition.

In the absence of a provision for trustee areas, the proposed new district shall have a governing board elected by the registered voters of the entire district.

35735. (a) Each proposal for the reorganization of school districts shall include a computation of the base revenue limit per unit of average daily attendance for the districts. That computation shall be an integral part of the proposal and shall not be considered separately from the proposal. The computation of the base revenue limit for the newly organized school districts shall be based on the current information available for each affected school district for the second principal apportionment period for the fiscal year two years prior to the fiscal year in which the reorganization is to become effective. The computation of any adjustments for employee salaries and benefits shall be based on information from the fiscal year two years prior to the fiscal year in which the reorganization is to become effective. For the purposes of this article "affected school district" means a school district affected by a reorganization because all or a portion of its average daily attendance is to be included in the newly organized school districts.

(b) The county superintendent of schools shall compute the base revenue limit per unit of average daily attendance pursuant to Section 35735.1 for a school district involved in an action to reorganize and in an action to transfer territory.

(c) The State Department of Education shall use information provided pursuant to subdivision (a) by the county superintendent of schools in each county that has a school district affected by an action to unify or by an appeal of a transfer of territory to compute the base revenue limit per unit of average daily attendance for a newly organized school district pursuant to Section 35735.1.

(d) This section shall not apply to any reorganization proposal approved by the State Board of Education prior to January 1, 1995.

(e) Any costs incurred by the county superintendent of schools in preparing reports pursuant to this section or Section 35735.1 or 35735.2 may be billed to the affected school districts on a proportionate basis.

35735.1. (a) The base revenue limit per unit of average daily attendance for newly organized school districts shall be equal to the total of the amount of blended revenue limit per unit of average daily attendance of the affected school districts computed pursuant to paragraph (1), the amount based on salaries and benefits of classified employees computed pursuant to paragraph (2), the amount based on salaries and benefits of certificated employees calculated pursuant to paragraph (3), and the amount of the inflation adjustment calculated pursuant to paragraph (4). The following computations shall be made to determine the base revenue limit per unit of average daily attendance for the newly organized school districts:

(1) Perform the following computation to arrive at the blended revenue limit:

(A) Based on the current information available for each affected school district for the second principal apportionment period for the fiscal year, two years prior to the fiscal year in which the reorganization is to become effective, multiply the base revenue limit per unit of average daily attendance for that school district by the number of units of average daily attendance for that school district that the county superintendent of schools determines will be included in the proposed school district.

(B) Add the amounts calculated pursuant to subparagraph (A).

(2) For each affected school district in the newly organized school districts, the following computation shall be made to determine the amount to be included in the base revenue limit per unit of average daily attendance for the newly organized school districts that is based on the salaries and benefits of full-time equivalent classified employees:

(A) For each of those school districts, make the following computation to arrive at the highest average amount expended for salaries and benefits for classified full-time employees by the districts:

(i) Add the amount of all salaries and benefits for classified employees of the district, including both part-time and full-time employees.

(ii) Divide the amount computed in clause (i) by the total number of full-time equivalent classified employees in the district.

(B) Among those school districts that will make up 25 percent or more of the average daily attendance of the resulting newly organized school district, compare the amounts determined for each of those school districts pursuant to subparagraph (A) and identify the highest average amount expended for salaries and benefits for classified employees.

(C) For each of the school districts with salaries and benefits that are below the highest average amount identified in subparagraph (B) and that are included, in whole or in part, in the newly organized district, subtract the amount determined for the district pursuant to subparagraph (A) from the amount identified pursuant to subparagraph (B).

(D) For each of those school districts, multiply the amount determined for the district pursuant to subparagraph (C) by the number of full-time equivalent classified employees employed by the district, and then multiply by the percentage of the district's average daily attendance to be included in the new district.

(E) Add the amounts computed for each school district pursuant to subparagraph (D).

(3) For each affected school district in the newly organized school districts, the following computation shall be made to determine the amount to be included in the base revenue limit per unit of average daily attendance for the newly organized school districts that is based on the salaries and benefits of full-time equivalent certificated employees:

(A) For each of those school districts, make the following computation to determine the highest average amount expended for salaries and benefits for certificated full-time employees:

(i) Add the amount of all salaries and benefits for certificated employees, including both part-time and full-time employees.

(ii) Divide the amount determined in clause (i) by the total number of full-time equivalent certificated employees in the district.

(B) Among those school districts that will make up 25 percent or more of the average daily attendance of the resulting newly organized school district, compare the amounts determined for each school district pursuant to subparagraph (A) and identify the highest average amount expended for salaries and benefits for certificated employees.

(C) For each of the school districts with salaries and benefits that are below the highest average amount identified in subparagraph (B) and that are included, in whole or in part, in the newly organized school district, subtract the amount determined for the district pursuant to subparagraph (A) from the amount identified pursuant to subparagraph (B).

(D) For each of those school districts, multiply the amount determined for the district pursuant to subparagraph (C) by the number of full-time equivalent certificated employees of the school district, and then multiply by the percentage of the district's average daily attendance to be included in the new district.

(E) Add the amount calculated for each school district identified pursuant to subparagraph (D).

(4) The base revenue limit per unit of average daily attendance shall be adjusted for inflation as follows:

(A) Add the amounts determined pursuant to subparagraph (B) of paragraph (1), subparagraph (E) of paragraph (2), and subparagraph (E) of paragraph (3), and divide that sum by the number of units of average daily attendance in the newly organized school districts. The amount determined pursuant to this subparagraph shall not exceed 110 percent of the blended revenue limit per unit of average daily attendance calculated pursuant to paragraph (1).

(B) (i) Increase the amount determined pursuant to subparagraph (A) by the amount of the inflation adjustment calculated and used for apportionment purposes pursuant to Section 42238.1 for the fiscal year immediately preceding the year in which the reorganization becomes effective.

(ii) With respect to a school district that unifies effective July 1, 1997, and that has an average daily attendance in the 1996-97 fiscal year of more than 1,500 units, increase the amount determined pursuant to subparagraph (A) by an amount calculated as follows:

(I) For each component district of the newly unified district, multiply the amount of revenue limit equalization aid per unit of average daily attendance determined pursuant to Sections 42238.41, 42238.42, and 42238.43, or any other sections of law, for the

1996-97 fiscal year by the 1996-97 second principal apportionment units of average daily attendance determined pursuant to Section 42238.5 for that component district.

(II) Add the results for all component districts, and divide this amount by the sum of the 1996-97 second principal apportionment units of average daily attendance determined pursuant to Section 42238.5 for all component districts.

(C) Increase the amount determined pursuant to subparagraph (B) by the amount of the inflation adjustment calculated and used for apportionment purposes pursuant to Section 42238.1 for the fiscal year in which the reorganization becomes effective for all purposes.

(D) Increase the amount determined pursuant to subparagraph (C) by any other adjustments to the base revenue limit per unit of average daily attendance that the newly organized school districts would have been eligible to receive had they been reorganized in the fiscal year two years prior to the year in which the reorganization becomes effective for all purposes.

(b) The amount determined pursuant to subparagraph (D) of paragraph (4) of subdivision (a) shall be the base revenue limit per unit of average daily attendance for the newly organized school districts.

(c) The base revenue limit per unit of average daily attendance for the newly organized school district shall not be greater than the amount set forth in the proposal for reorganization that is approved by the state board. The Superintendent may make adjustments to base revenue limit apportionments to a newly organized school district, if necessary to cause those apportionments to be consistent with this section.

(d) If the territorial jurisdiction of any school district was revised pursuant to a unification, consolidation, or other reorganization, occurring on or before July 1, 1989, that resulted in a school district having a larger territorial jurisdiction than the original school district prior to the reorganization, and a reorganization of school districts occurs on or after the effective date of the act that added this subdivision that results in a school district having a territorial jurisdiction that is substantially the same, as determined by the state board, as the territorial jurisdiction of that original school district prior to the most recent reorganization occurring on or before July 1, 1989, the revenue limit of the school district resulting from the subsequent reorganization shall be the same, notwithstanding subdivision (b), as the revenue limit that was determined for the original school district prior to the most recent reorganization occurring on or before July 1, 1989.

(e) The average daily attendance of a newly organized school district, for purposes of subdivision (d) of Section 42238, shall be the average daily attendance that is attributable to the area reorganized for the fiscal year two years prior to the fiscal year in which the new district becomes effective for all purposes.

(f) For purposes of computing average daily attendance pursuant to subdivision (d) of Section 42238 for each school district that exists prior to the reorganization and whose average daily attendance is directly affected by the reorganization, the following calculation shall apply for the fiscal year two years prior to the fiscal year in which the newly reorganized school district becomes effective:

(1) Divide the 1982-83 fiscal year average daily attendance, computed pursuant to subdivision (d) of Section 42238, by the total average daily attendance of the district pursuant to Section 42238.5.

(2) Multiply the percentage computed pursuant to paragraph (1) by the total average daily attendance of the district calculated pursuant to Section 42238.5, excluding the average daily attendance of pupils attributable to the area reorganized.

(g) This section shall not apply to any reorganization proposal approved by the state board prior to January 1, 1995.

(h) Notwithstanding any other provision of law, this section shall not be subject to waiver by the state board pursuant to Section 33050 or by the Superintendent.

35735.2. (a) If a newly organized school district is unable to provide the school facilities necessary to provide instructional services by employees of the district to all of the pupils who are residents of that district during the fiscal year in which the reorganization becomes effective for all purposes, the base revenue limit per unit of average daily attendance of the newly organized district shall be the blended revenue limit arrived at pursuant to paragraph (1) of subdivision (a) of Section 35735.1 as adjusted by the calculations made pursuant to subparagraphs (B), (C), and (D) of paragraph (4) of subdivision (a) of Section 35735.1 and subdivision (b) of Section 35735.1. As the newly organized school district obtains the school facilities necessary to provide instructional services by employees of the district to all or a portion of those pupils, the following adjustment shall be made to the base revenue limit per unit of average daily attendance of the district each fiscal year subsequent to the fiscal year in which the reorganization becomes effective until the fiscal year in which the district provides the facilities necessary to provide those services for all of those pupils:

(1) Determine the total number of pupils who are residents of the district to whom the district was unable to provide school facilities necessary to provide that instruction during the fiscal year in which the reorganization becomes effective for all purposes.

(2) Determine the total number of pupils identified in paragraph (1) that will attend school in school facilities located in, and receive instructional services provided by employees of, that district in the current fiscal year.

(3) Divide the number determined pursuant to paragraph (2) by the number determined pursuant to paragraph (1) to determine the percentage of pupils identified in paragraph (1) who will attend school in school facilities located in, and receive instructional services provided by employees of, that district in the current fiscal year.

(4) Multiply the numbers determined pursuant to paragraphs (2) and (3) of subdivision (a) of Section 35735.1 by the percentage determined pursuant to paragraph (3) for that fiscal year, and total the amounts. Divide that sum by the number of units of average daily attendance residing in the proposed district in the current fiscal year.

(5) Increase the base revenue limit calculated pursuant to subdivision (a) of this section for the school district by the amount arrived at pursuant to paragraph (4) as adjusted by the calculations pursuant to subparagraphs (B), (C), and (D) of paragraph (4) of subdivision (a) of Section 35735.1. In no event shall the amount determined pursuant to this paragraph exceed that amount that would otherwise be calculated pursuant to subdivision (a) of Section 35735.1.

(b) For the purposes of making the adjustments described in subdivision (a), the annual audit of the school district required pursuant to Section 41020 shall include an audit of the average daily attendance of pupils by grade level and the numbers of certificated and classified employees on which the adjustments to the base revenue limit of the district were made pursuant to paragraphs (1), (2), and (3) of subdivision (a)

of Section 35735.1. Until the newly organized school district provides the school facilities necessary to provide instructional services by employees of the district to pupils who are residents of the district in the manner and in the timeframes set forth in the proposal to reorganize that was approved by the State Board of Education, the county superintendent of schools shall, for each fiscal year, inform the Superintendent of Public Instruction of the extent to which the district is providing those facilities to those pupils. The county superintendent of schools may charge the school district for the cost of preparation of the report. Based on that information, the superintendent shall make base revenue limit apportionments to the school district in a manner consistent with subdivision (a).

(c) If the newly organized school district is unable to provide the school facilities necessary to provide instructional services by employees of the district to all of the pupils who are residents of the district five years from the date on which the reorganization becomes effective for all purposes, the State Department of Education shall recommend to the State Board of Education whether or not the district should be lapsed pursuant to Article 5 (commencing with Section 35780). The State Department of Education shall make that recommendation for each fiscal year until either the school district provides the school facilities necessary to provide instructional services by employees of the district to all of the pupils who are residents of the district or the district is lapsed. Upon recommendation by the State Department of Education, the State Board of Education may direct the county committee on school district organization to lapse the school district according to the procedures set forth in Article 5 (commencing with Section 35780).

(d) This section shall not apply to any reorganization proposal approved by the State Board of Education prior to January 1, 1995.

35736. Plans and recommendations may include a proposal for dividing the property, other than real property, and obligations of any school district proposed to be divided between two or more school districts, or proposed to be partially included in one or more school districts. As used in this section, "property" includes funds, cash on hand, and moneys due but uncollected on the date reorganization becomes effective for all purposes, and state apportionments based on average daily attendance earned in the year immediately preceding the date reorganization becomes effective for all purposes. In providing for this division, the plans and recommendations may consider the assessed valuation of each portion of the district, the revenue limit per pupil in each district, the number of children of school age residing in each portion of the district, the value and location of the school property, and such other matters as may be deemed pertinent and equitable. Any such proposal shall be an integral part of the proposal and not a separate proposition.

35737. Plans and recommendations may include a provision specifying that the election for the first governing board will be held at the same time as the election on the reorganization of the school districts. If such a provision is included, it shall specify the method whereby the length of the initial terms may be determined so that the governing board will ultimately have staggered terms which expire in years with regular election dates. In the absence of such a provision, the election of the first governing board will

take place on the first regular election following the passage of the reorganization proposal.

35738. Plans and recommendations may include a method of dividing the bonded indebtedness other than the method specified in paragraphs (1) and (2) of subdivision (b) of Section 35576 for the purpose of providing greater equity in the division. Consideration may be given to the assessed valuation, number of pupils, property values, and other matters which the petitioners or county committee deems pertinent.

35753. (a) The State Board of Education may approve proposals for the reorganization of districts, if the board has determined, with respect to the proposal and the resulting districts, that all of the following conditions are substantially met:

(1) The reorganized districts will be adequate in terms of number of pupils enrolled.

(2) The districts are each organized on the basis of a substantial community identity.

(3) The proposal will result in an equitable division of property and facilities of the original district or districts.

(4) The reorganization of the districts will preserve each affected district's ability to educate students in an integrated environment and will not promote racial or ethnic discrimination or segregation.

(5) Any increase in costs to the state as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(6) The proposed reorganization will continue to promote sound education performance and will not significantly disrupt the educational programs in the districts affected by the proposed reorganization.

(7) Any increase in school facilities costs as a result of the proposed reorganization will be insignificant and otherwise incidental to the reorganization.

(8) The proposed reorganization is primarily designed for purposes other than to significantly increase property values.

(9) The proposed reorganization will continue to promote sound fiscal management and not cause a substantial negative effect on the fiscal status of the proposed district or any existing district affected by the proposed reorganization.

(10) Any other criteria as the board may, by regulation, prescribe.

(b) The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

35754. After affording interested persons an opportunity to present their views on the petition and after hearing any findings and recommendations of the State Superintendent of Public Instruction, the State Board of Education shall approve or disapprove the formation of the proposed new district. If the board approves the formation, it may amend or include in the proposal any of the appropriate provisions of Article 3 (commencing with Section 35730).

35755. After the State Board of Education has approved the plans and recommendations for the unification or other reorganization of the school districts in any area, the secretary of the State Board of Education shall give notice of the approval to the county superintendent of schools having jurisdiction over any of the districts whose boundaries or status would be affected by the reorganization as proposed.

35756. The county superintendent of schools, within 35 days after receiving the notification provided by Section 35755, shall call an election, to be conducted at the next election of any kind in the territory of districts as determined by the state board, in accordance with either of the following:

(a) Section 1002 of the Elections Code and Part 4 (commencing with Section 5000).
(b) Division 4 (commencing with Section 4000) of the Elections Code.

Government Code Section Cited in Agenda Item

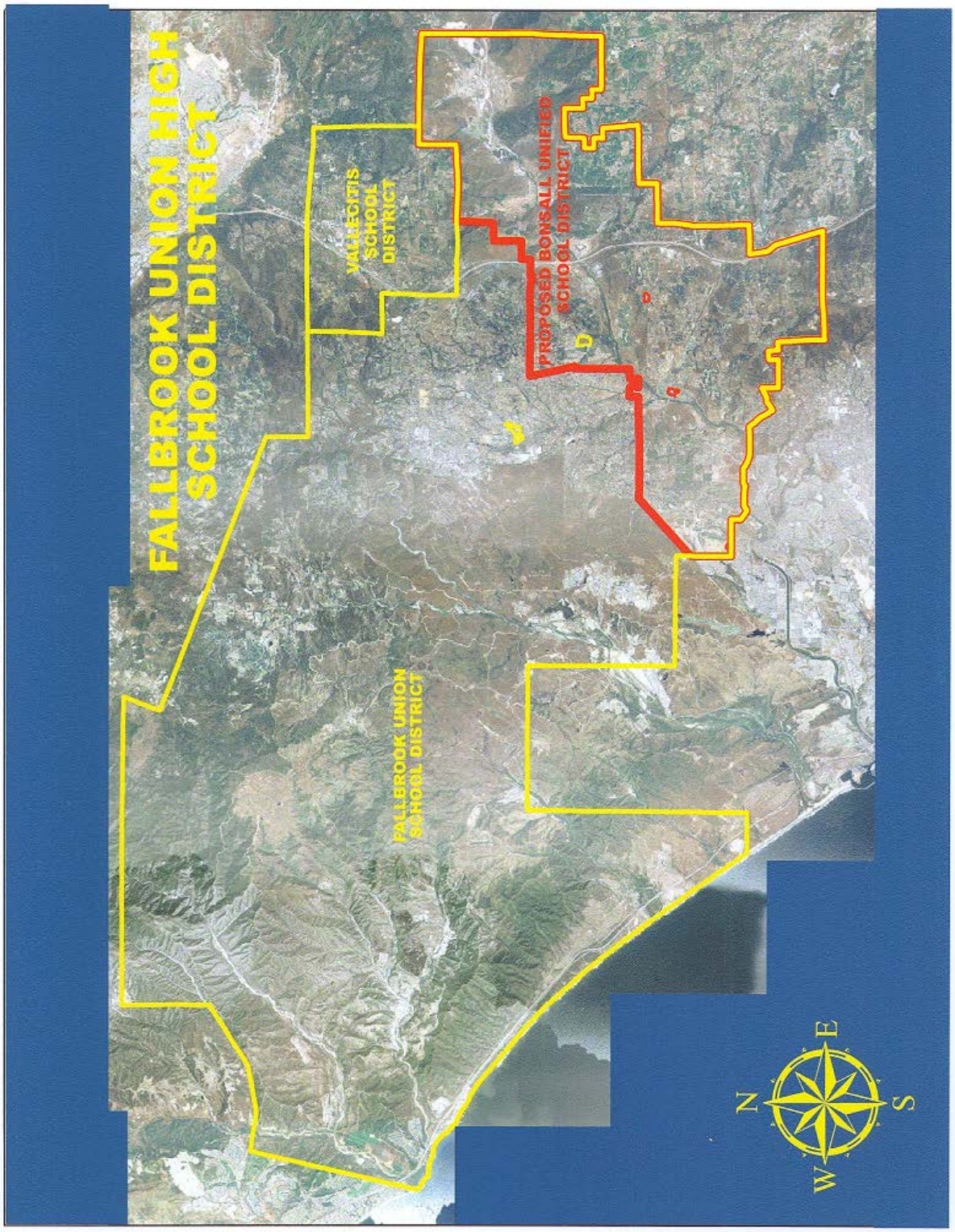
4526. Notwithstanding any other provision of law, selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. In order to implement this method of selection, state agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services shall adopt by regulation, and local agency heads contracting for private architectural, landscape architectural, professional engineering, environmental, land surveying, and construction project management services may adopt by ordinance, procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.

In addition, these procedures shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when those employees have a relationship with a person or business entity seeking a contract under this section which would subject those employees to the prohibition of Section 87100.

Public Resources Code Section Cited in Agenda Item

21089. (a) A lead agency may charge and collect a reasonable fee from a person proposing a project subject to this division in order to recover the estimated costs incurred by the lead agency in preparing a negative declaration or an environmental impact report for the project and for procedures necessary to comply with this division on the project. Litigation expenses, costs, and fees incurred in actions alleging noncompliance with this division under Section 21167 are not recoverable under this section.

Map of Fallbrook Union High School District
Map includes the boundaries of Fallbrook Union High School District's three component elementary school districts, including the Bonsall Union Elementary School District proposed for unification.



California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 18

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Kingsburg Elementary Charter School District: Consideration of Petition to Renew Districtwide Charter.	☒ Action ☒ Information ☒ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) hold a public hearing and renew the districtwide charter for the Kingsburg Elementary Charter School District (Kingsburg ECSD) for a five-year term ending June 30, 2016. A districtwide charter petition shall be approved only by joint action of the Superintendent of Public Instruction (SSPI) and the SBE pursuant to California *Education Code (EC)* Section 47606(b). The Advisory Commission on Charter Schools (ACCS) heard this issue on May 31, 2011, and by a vote of 7 to 0 recommends the SBE and the State Superintendent of Public Instruction approve the renewal. In addition, the State Superintendent of Public Instruction (SSPI) has approved the Kingsburg ECSD charter renewal in accordance with the requirements in California *Education Code* (*EC)* Section 47606(b).

Accordingly, the CDE and the State Superintendent of Public Instruction (SSPI) recommend the SBE renew the Kingsburg ECSD charter renewal petition for a five-year charter term beginning July 1, 2011, and ending June 30, 2016 pursuant to the requirements of *EC* Section 47607(a)(1), which states, “Each renewal shall be for a period of five years.”

If approved, the CDE recommends that the SBE incorporate the following provisions in any approval action:

- Modifications to the charter in accordance with the CDE report as set forth in detail in Attachment 1 and as follows:
    - Health and Safety Procedures, *EC* Section 47605(b)(5)(F): revisions to health and safety procedures to include the requirement that volunteers and contractors, in addition to employees, will submit a tuberculosis test and periodic testing thereafter.

RECOMMENDATION (Cont.)

- Specification of a five-year term beginning July 1, 2010, and ending June 30, 2015

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Since 1992, 93 charter petitions have been submitted to the CDE for consideration. Of these 93 petitions, 28 were withdrawn before consideration by the SBE. Of the remaining 65 petitions, the SBE approved 41 petitions, 7 petitions were withdrawn by the petitioners prior to formal consideration by the SBE, the SBE denied 11 petitions, the SBE did not take formal action on 2 petitions, 1 petition is scheduled to be considered at the July 2011 meeting of the SBE, and 3 petitions are scheduled to be considered at the September 2011 meeting of the SBE. The 41 petitions approved by the SBE resulted in the authorization of 29 charter schools, 3 statewide benefit charters that operate a total of 11 schools, and 9 districtwide charters that operate a total of 18 schools.

Of the 40 charter schools that have been authorized by the SBE since 1992, 31 charter schools are currently operating under SBE oversight, and 9 charter schools are no longer under SBE oversight due to the following reasons: 4 charter schools were locally renewed, 4 schools were abandoned, and 1 school was revoked by the SBE. The SBE has considered and approved 8 renewal petitions from SBE-authorized charter schools. As of May 3, 2011, 1 additional school was locally renewed effective July 1, 2011, which will bring the number of schools operating under SBE oversight to 30.

One districtwide charter was non-renewed by the SBE, and 8 districtwide charters are currently operating under the joint authorization of the SBE and the SSPI. The 8 districtwide charters operate a total of 18 schools. The SBE has considered 17 and approved 16 renewal petitions from districtwide charters.

SUMMARY OF KEY ISSUES

The Kingsburg ECSD currently serves approximately 2,330 pupils in kindergarten through grade eight in Kingsburg, California. Based on data from the 2009–10 school year, 51 percent of pupils in the Kingsburg ECSD come from socio-economically disadvantaged (SED) families; 14.9 percent are designated as English Learner (EL) students; and 56.5 percent of pupils are Hispanic or Latino. Data displayed in Table 9 of Attachment 1.

Kingsburg ECSD currently has a 2010 Growth Academic Performance Index (API) of 816. Over the current five-year charter term, Kingsburg ECSD had a net API growth of 41 points. The Kingsburg ECSD's 2009–10 API growth was 24 points. Between 2009 and 2010, SED students in the Kingsburg ECSD gained 36 API points; EL students gained 54 API points; Hispanic or Latino students gained 39 API points; and students with disabilities gained 56 API points. Data displayed in Tables 2 and 3 of Attachment 1.

SUMMARY OF KEY ISSUES (Cont.)

The Kingsburg ECSD mission is to foster a collegial atmosphere between home, community, and school for the benefit of each student by providing a quality education and a positive learning experience tailored to the needs of each student. Kingsburg ECSD uses a standards-based instructional model with state approved materials. The Kingsburg ECSD operates seven separate charter schools. Enrollment and performance data are provided in Table 1 of Attachment 1.

EC Section 47607 provides that a districtwide charter may be granted one or more subsequent renewals and that each renewal shall be for a period of five years. Renewals shall be governed by the standards and criteria in *EC* Section 47605 and shall include a comprehensive description of any new requirement of charter schools enacted into law after the charter was initially granted or last renewed. *EC* Section 47607(b) requires that a districtwide charter meet at least one of the following criteria prior to receiving a charter renewal:

1. Attain its API growth target in the prior year or in two of the last three years. All of the schools in the Kingsburg ECSD that participated in the annual Standardized Testing and Reporting Program (STAR) assessment met this target in the last two years.

2. Attain a statewide API decile ranking of 4 or higher in the prior year or in two of the last three years. Three out of the four schools in the Kingsburg ECSD that participate in the STAR assessment have earned a statewide rank of 4 or higher. Kingsburg Community Charter Extension (KCCE) is the only school not to reach this goal.

3. Attain a similar schools API decile ranking of 4 or higher in the prior year or in two of the last three years. Three out of the four schools that participate in the STAR assessment in the Kingsburg ECSD have earned a similar school rank of 4 or higher. KCCE is the only school not to reach this goal.

4. Achieve academic performance equal to the academic performance of neighboring schools or any schools its pupils would otherwise be required to attend. Kingsburg ECSD attained a higher net growth API than Clay Elementary School District, one of the three local districts, as displayed in Table 2, of Attachment 1.

The Kingsburg ECSD charter renewal petition describes an educational program likely to meet the needs of pupils within the community by providing an educational program grounded in standards-based instruction fostered in a collegial atmosphere. The petitioners are demonstrably likely to implement the program set forth in the petition and the petition contains reasonably comprehensive descriptions of the 16 charter elements pursuant to *EC* Section 47605(b)(5). In addition, the CDE finds that Kingsburg ECSD has experience in starting and operating a districtwide charter under the authorization of the SBE and has been responsive and compliant to deadlines and requests from the CDE. The SSPI and the CDE recommend that the SBE approve the districtwide charter renewal petition with the conditions noted in the staff review.

SUMMARY OF KEY ISSUES (Cont.)

Attachment 1 summarizes the CDE staff review of the charter petition and operations of the district when evaluated against the 16 required elements for renewal.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved, Kingsburg ECSD would continue to receive apportionment funding at the district's revenue limit. The district's budget has received a positive financial condition certification from the Fresno County Office of Education. A letter stating this information is included on page 34 of the petition (see Attachment 2).

ATTACHMENTS

Attachment 1: California Department of Education Districtwide Charter Renewal Review Form (37 Pages)

Attachment 2: Kingsburg Elementary Charter School District Charter Renewal Application (39 Pages)

California Department of Education
Districtwide Renewal Petition Review Form
Kingsburg Elementary Charter School District

Key Information	
Grade Span	The Kingsburg Elementary Charter School District (Kingsburg ECSD) serves 2,347 students in grades kindergarten through eight in seven schools.
Location	Kingsburg ECSD operates seven charter schools located in Kingsburg, California. Washington School: Kindergarten 1501 Ellis Street Roosevelt School: Grade One 1185 10th Street Lincoln School: Grades Two and Three 1900 E. Mariposa Street Ronald Reagan School: Grades Four through Six 395 Kern Street Rafer Johnson Junior High: Grades Seven and Eight 1310 Stroud Avenue Island Community Day School: expelled students Grades Five through Eight 1778 6th Avenue Drive Kingsburg Community Extension School: non-site based personalized instruction model for Grades Kindergarten though Eight 1776 6th Avenue Drive
Brief History	In 1996, the State Board of Education (SBE) approved Kingsburg ECSD to operate as a districtwide charter under the oversight of the SBE for a five-year charter term. Kingsburg ECSD was granted two charter renewals by the SBE in 2001 and 2006. The petitioners submitted a petition for renewal of its districtwide charter to the SBE on January 28, 2011.
Lead Petitioner	Mark Ford, Superintendent, Kingsburg ECSD

California Department of Education Staff Review Summary for the Kingsburg ECSD Renewal Petition			
	Required Charter Elements Under *Education Code* Section 47605(b)	**Meets Requirements**	**Technical Amendments Necessary**
	Sound Educational Practice	Yes	
	Unsound Educational Practice	Yes**	
	Demonstrably Unlikely to Implement the Program	Yes**	
	Required Number of Signatures	NA*	
	Affirmation of Specified Conditions	Yes	
1	Description of Educational Program	Yes	
2	Measurable Pupil Outcomes	Yes	
3	Method for Measuring Pupil Progress	Yes	
4	Governance Structure	Yes	
5	Employee Qualifications	Yes	
6	Health and Safety Procedures	Yes	**Yes**
7	Racial and Ethnic Balance	Yes	
8	Admission Requirements	Yes	
9	Annual Independent Financial Audits	Yes	
10	Suspension and Expulsion Procedures	Yes	
11	Retirement Coverage	Yes	
12	Public School Attendance Alternatives	Yes	
13	Post-employment Rights of Employees	Yes	
14	Dispute Resolution Procedures	Yes	
15	Exclusive Public School Employer	Yes	
16	Closure Procedures	Yes	
	Standards, Assessments, and Parent Consultation	Yes	
	Employment is Voluntary	Yes	
	Pupil Attendance is Voluntary	Yes	

*****Signature requirements pursuant to *EC* Section 47605(b)(3) are not required for charter renewal petitions.

******Yes means that the school does not provide an unsound educational program and is not demonstrably unlikely to implement the program.

Overall California Department of Education Evaluation

The Kingsburg ECSD currently serves approximately 2,330 pupils in grades kindergarten though eight in Kingsburg, California. Ninety-one percent of the students enrolled in the Kingsburg ECSD are students who reside in the district. Based on data from the 2009–10 school year, 51 percent of pupils in the Kingsburg ECSD come from socio-economically disadvantaged (SED) families; 14.9 percent are designated as English learner (EL) students; and 56.5 percent of pupils are Hispanic or Latino. Kingsburg ECSD currently has a 2010 Growth Academic Performance Index (API) of 816.

Over the current five-year term, Kingsburg ECSD had a net API growth of 41 points. Kingsburg ECSD's 2009–10 API growth was 24 points. SED students in the Kingsburg ECSD gained 36 API points between 2009 and 2010. EL students gained 54 points, Hispanic/Latino students gained 39 points, and students with disabilities gained 56 points. Kingsburg ECSD operates seven separate schools. Performance data for the current charter term, 2006–2011 is provided in Table 1of Attachment 1.

Table 1. Individual School Data for Kingsburg ECSD

School (Grade Levels Served)	Washington (Kindergarten)	Roosevelt (1)	Lincoln (2–3)	Reagan (4–6)	Johnson (7–8)	Kingsburg Community Charter Extension (K–8)	Island Community Day (5–8)
2010–11 Accountability Progress Reporting							
State Rank/Similar School Rank	NA	NA	7/6	7/7	7/4	3/1	NA
Base/Growth API (Target/Growth)	NA	NA	825/* (A/*)	840/* (A/*)	800/* (A/*)	744/* (5/*)	NA
2009–10 Accountability Progress Reporting							
State Rank/Similar School Rank	NA	NA	7/5	6/5	7/4	1/1	NA
Base/Growth API (Target/Growth)	NA	NA	820/825 (A/5)	799/840 (1/41)	792/800 (5/8)	692/744 (5/52)	NA
2008–09 Accountability Progress Reporting							
State Rank/Similar School Rank	NA	NA	6/5	6/5	6/3	1/1	NA
Base/Growth API (Target/Growth)	NA	NA	793/820 (5/27)	795/799 (5/4)	763/794 (5/31)	783/692 (6/9)	NA
2007–08 Accountability Progress Reporting							
State Rank/Similar School Rank	NA	NA	6/5	6/4	7/5	4/2	NA
Base/Growth API (Target/Growth)	NA	NA	789/786 (5/-3)	B/803 (B/B)	761/766 (5/5)	745/790 (5/-55)	NA
2006–07 Accountability Progress Reporting							
State Rank/Similar School Rank	NA	NA	7/8	7/9	7/7	4/3	NA
Base/Growth API (Target/Growth)	NA	NA	808/794 (A/-14)	792/780 (5/-12)	767/761 (5/-6)	725/745 (5/20)	NA

“NA” means not applicable to the grade levels served by the school. “A” means the school scored at or above the statewide performance target of 800. “B” means the school did not have a valid Base API and will not have any growth or target information. “*” means the data has not yet been released. **Source: DataQuest Retrieved May 2011**

In considering the Kingsburg ECSD charter renewal petition, the California Department of Education (CDE) reviewed:

- The Kingsburg ECSD renewal petition
- Kingsburg ECSD statewide assessment results
- Kingsburg ECSD progress on measurable student outcomes from the current charter petition

California *Education Code (EC)* Section 47607 provides that a districtwide charter may be granted one or more subsequent renewals and that each renewal shall be for a period of five years. Renewals shall be governed by the standards and criteria in *EC* Section 47605 and shall include a comprehensive description of any new requirement of charter schools enacted into law after the charter was initially granted or last renewed. *EC* Section 47607(b) requires that a districtwide charter meet at least one of the following criteria prior to receiving a charter renewal:

1. Attain its API growth target in the prior year or in two of the last three years. All of the schools in the Kingsburg ECSD that participated in the annual Standardized Testing and Reporting Program (STAR) assessment met this target the last two years.

2. Attain a statewide API decile ranking of 4 or higher in the prior year or in two of the last three years. Three out of the four schools in the Kingsburg ECSD have earned a statewide rank of 4 or higher. Kingsburg Community Charter Extension (KCCE) is the only school to not reach this goal.

3. Attain a similar schools API decile ranking of 4 or higher in the prior year or in two of the last three years. Three out of the four schools in the Kingsburg ECSD have earned a similar school rank of 4 or higher. KCCE is the only school to not reach this goal.

4. Achieve academic performance equal to the academic performance of neighboring schools or any schools its pupils would otherwise be required to attend. Kingsburg ECSD attained a higher net growth API than Clay Elementary School District, one of the three local districts as displayed in Table 2.

Kingsburg ECSD meets each of the criteria above, with the exception of KCCE, which only met one of the criteria above for charter renewal. In addition, the CDE finds that the Kingsburg ECSD charter renewal petition meets all of the elements required for the establishment of a charter school pursuant to *EC* Section 47605(b). The Kingsburg ECSD charter renewal petition describes an educational program likely to meet the needs of pupils within the community by providing an educational program grounded in standards-based instruction fostered in a collegial atmosphere. The petitioners are demonstrably likely to implement the program set forth in the petition, and the petition contains reasonably comprehensive descriptions of the 16 charter elements required

pursuant to *EC* Section 47605(b)(5). In addition, the CDE finds that Kingsburg ECSD has experience in starting and operating a districtwide charter under the authorization of the SBE and has been responsive and compliant to deadlines and requests from the CDE.

Accordingly, the CDE and the State Superintendent of Public Instruction (SSPI) recommend the SBE renew the Kingsburg ECSD charter renewal petition for a five-year charter term beginning July 1, 2011, and ending June 30, 2016 pursuant to the requirements of *EC* Section 47607(a)(1), which states, "Each renewal shall be for a period of five years."

If approved, the CDE recommends that the SBE incorporate the following provisions in any approval action:

- Modifications to the charter in accordance with the CDE report as set forth in detail in Attachment 1 and as follows:
    - Health and Safety Procedures, *EC* Section 47605(b)(5)(F): revisions to health and safety procedures to include the requirement that volunteers and contractors, in addition to employees, will submit to a tuberculosis test and periodic testing thereafter.
- Specification of a five-year term beginning July 1, 2011, and ending June 30, 2015

Requirements for State Board of Education Authorized Charter Schools

Sound Educational Practice	***EC* Section 47605(b)** ***California Code of Regulations, Title* 5 (5 *CCR*) Section 11967.5.1(a)**
Evaluation Criteria For purposes of *EC* Section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the SBE's judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted by the SBE.	
Is the charter petition "consistent with sound educational practice?"	**Yes**

Comments:

The Kingsburg ECSD renewal petition proposes to serve students in Kingsburg, California with an educational program that is likely to be of educational benefit to the pupils who attend the school as evidenced by consistent API growth during the previous five-year charter term. The Kingsburg ECSD renewal petition states the benefits of districtwide charter status for the district and allows the district to be set apart from others in the educational community. The Kingsburg ECSD renewal petition also states districtwide charter status provides for innovation and implementation of effective education programs; including music, art, career technology, and a focus on science, technology, engineering, and mathematics.

The Kingsburg ECSD mission is to foster a collegial atmosphere between home, community, and school for the benefit of each student by providing education and a learning experience tailored to the needs of each student. Kingsburg ECSD uses a standards-based instructional model with state-approved materials.

Table 2 contains net API growth data for the Kingsburg ECSD and districts that the students would otherwise attend.

Table 2. Net API Growth for Kingsburg Elementary Charter School District and Surrounding School Districts

Net API Growth	Kingsburg ECSD	Kings River Elementary School District	Clay Elementary School District	Selma Unified School District
2006–07	-4	+37	+18	+13
2007–08	+4	+20	+2	+12
2008–09	+17	-2	+25	+11

2009–10	+24	+4	-11	+22
Four-year Net	**+41**	**+59**	**+34**	**+58**
Source: DataQuest Retrieved April 2011				

Table 3 contains academic achievement data for the Kingsburg ECSD and schools within the district. Kingsburg ECSD has two schools in Program Improvement (PI) status. Both schools, Lincoln and Reagan, are in year one of PI status. Lincoln entered year one of PI in the 2010–11 school year. Reagan Elementary school entered year one of PI in the 2009–10 school year. Both schools have written a Single Plan for Student Achievement (SPSA) and have notified parents appropriately of the schools' PI status. Actions described in the SPSA include Response to Intervention (RTI), learning activities before and after school, professional development for the instructional staff, and the incorporation of scientifically-based research strategies to strengthen each school's core academic program. Reagan Elementary school met all 2009–10 Annual Measurable Objectives (AMOs). Should Reagan Elementary meet all Adequate Yearly Progress (AYP) requirements for the 2010–11 school year, it will exit PI status.

Table 3. Academic Data for Kingsburg Elementary Charter School District and Schools within the District that Serve Pupils Who Participate in the STAR Program					
	Kingsburg ECSD	**Lincoln**	**Reagan**	**Kingsburg Community Charter Extension**	**Johnson Jr. High**
API Data					
2009 Base API/ 2010 Growth API (Growth): Schoolwide	**792/816 (24)**	**820/825 (5)**	**799/840 (41)**	**692/744 (52)**	**792/800 (8)**
2009 Base API/ 2010 Growth API(Growth): Hispanic or Latino	743/782 (39)	763/783 (20)	741/801 (60)	NA	746/770 (24)
2009 Base API/ 2010 Growth API(Growth): Socioeconomically Disadvantaged	732/768 (36)	749/766 (17)	729/794 (65)	NA	726/744 (18)
2009 Base API/ 2010 Growth API(Growth): English Learners	660/714 (54)	683/750 (67)	NA/735	NA	NA
2009 Base API/ 2010 Growth API(Growth): Students with Disabilities	512/568 (56)	NA	NA	NA	NA
2009 Base API/ 2010 Growth API(Growth): White	843/861 (18)	897/883 (-14)	861/900 (39)	693/763 (70)	839/835 (-4)

Table 3. Academic Data for Kingsburg Elementary Charter School District and Schools within the District that Serve Pupils Who Participate in the STAR Program					
	Kingsburg ECSD	**Lincoln**	**Reagan**	**Kingsburg Community Charter Extension**	**Johnson Jr. High**
AYP Data					
Met AYP Criteria (Criteria Met/ Applicable Criteria)	No (24/25)	No (17/21)	Yes (21/21)	Yes (11/11)	No (13/17)
2010–11 Program Improvement (PI) Status	Not in PI	Year 1	Year 1	Not a Title 1 school	Not in PI
% Proficient or Advanced English Language Arts (ELA): Schoolwide	**59.3**	**56.1**	**62.4**	**55.5 (SH)**	**59.9**
% Proficient or Advanced ELA: Hispanic or Latino	51.0 (SH)	44.9	54.1 (SH)	NA	53.2 (SH)
% Proficient or Advanced ELA: Socioeconomically Disadvantaged	47.3 (SH)	42.2	50.7 (SH)	NA	48.6 (SH)
% Proficient or Advanced ELA: English Learners (NA = not numerically significant for AYP)	37.4 (SH)	40.6 (SH)	44.3 (SH)	NA	NA
% Proficient or Advanced ELA: Students with Disabilities	20.7	NA	NA	NA	NA

Table 3. Academic Data for Kingsburg Elementary Charter School District and Schools within the District that Serve Pupils Who Participate in the STAR Program					
	Kingsburg ECSD	**Lincoln**	**Reagan**	**Kingsburg Community Charter Extension**	**Johnson Jr. High**
AYP Data (Cont.)					
% Proficient or Advanced Mathematics: Schoolwide	**61.4**	**66.0**	**71.6**	**42.7 (SH)**	**46.7**
% Proficient or Advanced Mathematics: Hispanic or Latino	55.3 (SH)	58.0	65.6	NA	38.6
% Proficient or Advanced Mathematics: Socioeconomically Disadvantaged	54.8 (SH)	57.0	64.2	NA	38.2
% Proficient or Advanced Mathematics: English Learners (N/A = not numerically significant for AYP)	47.3 (SH)	56.6 (SH)	52.8 (SH)	NA	NA
% Proficient or Advanced Mathematics: Students with Disabilities	29.9 (SH)	NA	NA	NA	NA

AYP Target Percent Proficient 2009–2010: Elementary and Middle Schools targets are 56.8 percent in ELA and 58 percent in mathematics; District targets are 56 percent in ELA and 56.4 percent in mathematics.

SH = Passed by safe harbor: The school, Local Education Agency (LEA), or subgroup met the criteria for safe harbor, which is an alternate method of meeting the AMO if a school, an LEA, or a subgroup shows progress in moving students from scoring at the below proficient level to the proficient level.

NA = Not Applicable: Data not available or applicable to the subgroup as the group size is not numerically significant for API or AYP

Source: DataQuest, May 2011

Unsound Educational Practice	***EC* Section 47605(b)(1)** **5 *CCR* Section 11967.5.1(b)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(1), a charter petition shall be "an unsound educational program" if it is either of the following: (1) A program that involves activities that the SBE determines would present the likelihood of physical, educational, or psychological harm to the affected pupils. (2) A program that the SBE determines not likely to be of educational benefit to the pupils who attend.	
Does the charter petition present "an unsound educational program?"	**No**

Comments:

The Kingsburg ECSD charter renewal petition contains no indicators that its educational program as a whole meets either of the definitions of an unsound educational program as set forth in regulation.

Demonstrably Unlikely to Implement the Program	***EC* Section 47605(b)(2)** **5 *CCR* Section 11967.5.1(c)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(2), the SBE shall take the following factors into consideration in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program." (1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the SBE regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control. (2) The petitioners are unfamiliar in the SBE's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school. (3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school (as specified).	

Demonstrably Unlikely to Implement the Program	***EC* Section 47605(b)(2)** **5 *CCR* Section 11967.5.1(c)**
(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have plan to secure the services of individuals who have the necessary background in curriculum, instruction, assessment, and finance and business management.	
Are the petitioners "demonstrably unlikely to successfully implement the program?"	**No**

Comments:

Kingsburg ECSD has a strong record of educational, financial, and governance success. Kingsburg ECSD received a letter of support for its educational progress and positive financial certification from the Fresno County Office of Education. The CDE staff review of three prior years of annual audits reflect unqualified status, as well as strong ending fund balances of 8–9 million dollars and net assets of 16–17 million dollars. Average daily attendance reflects consistency in 2007–08 and 2008–09 and growth in 2009–10 and 2010–11.

Required Number of Signatures	***EC* Section 47605(b)(3)** **5 *CCR* Section 11967.5.1(d)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(3), a charter petition that "does not contain the number of signatures required by [law]"…shall be a petition that did not contain the requisite number of signatures at the time of its submission…	
Does the petition contain the required number of signatures at the time of its submission?	**Not Applicable**

Comments:

The requisite number of signatures from meaningfully interested teachers or parents is not required for charter renewal petitions.

Affirmation of Specified Conditions	***EC* Section 47605(b)(4)** ***EC* Section 47605(d)** **5 *CCR* Section 11967.5.1(e)**
Evaluation Criteria For purposes of *EC* Section 47605(b)(4), a charter petition that "does not contain an affirmation of each of the conditions described in [*EC* Section 47605(d)]"…shall be a petition that fails to include a clear, unequivocal affirmation of each such condition. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in *EC* Section 47605(d).	
(1)…[A] charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the California *Penal Code*. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.	Yes
(2)(A) A charter school shall admit all pupils who wish to attend the school. (B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district except as provided for in *EC* Section 47614.5. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law. (C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet pupil demand.	Yes
(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 30 days, and shall, upon request, provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This paragraph applies only to pupils subject to	Yes

Affirmation of Specified Conditions	***EC* Section 47605(b)(4)** ***EC* Section 47605(d)** **5 *CCR* Section 11967.5.1(e)**
compulsory full-time education pursuant to *EC* Section 48200.	
Does the charter petition contain the required affirmations?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition contains all of the required affirmations.

The 16 Charter Elements

1. Description of Educational Program	***EC* Section 47605(b)(5)(A)** **5 *CCR* Section 11967.5.1(f)(1)**
Evaluation Criteria The description of the educational program…, as required by *EC* Section 47605(b)(5)(A), at a minimum:	
(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.	Yes
(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an "educated person" in the 21st century, belief of how learning best occurs, and goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.	Yes
(C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.	Yes
(D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, technology-based education).	Yes
(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the SBE pursuant to *EC* Section 60605 and to achieve the objectives specified in the charter.	Yes
(F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.	Yes
(G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.	Yes
(H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of *EC* Section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.	Yes

1. Description of Educational Program	***EC* Section 47605(b)(5)(A)** **5 *CCR* Section 11967.5.1(f)(1)**
If serving high school students, describes how district/charter school informs parents about: • transferability of courses to other public high schools; and • eligibility of courses to meet college entrance requirements (Courses that are accredited by the Western Association of Schools and Colleges (WASC) may be considered transferable, and courses meeting the UC/CSU "a-g" admissions criteria may be considered to meet college entrance requirements.)	NA
Does the petition overall present a reasonably comprehensive description of the educational program?	**Yes**

Comments:

The mission of the Kingsburg ECSD is to foster a collegial atmosphere between home, community, and school for the benefit of each student by providing a quality education and a positive learning experience tailored to the needs of each student. Kingsburg ECSD uses a standards-based instructional model with state-approved materials. Kingsburg ECSD is structured as a community aligned school system. This system allows for students to move through grade levels as one unit. This grade-level configuration insures a consistent, innovative, and effective education for all students. The configuration also allows teachers and administrators to focus their efforts on training on the specific needs of students at their particular grade levels, proving an avenue for collaboration in Professional Learning Communities (PLC).

The Kingsburg ECSD offers a site-based educational program at six of the schools in the district. Kingsburg ECSD also offers an independent study program through KCCE. The independent study program ensures students and families are provided standards-based curriculum and state adopted curriculum and textbooks. Families are provided the teacher's editions of selected texts and pacing guides. Students enrolled in KCCE participate in district mandates including the expectation of automaticity with math facts and quarterly and monthly benchmark assessments. The benchmark assessments assist in the determination of mastery of the standards. Standards not mastered are re-taught and reassessed.

The Kingsburg ECSD charter renewal petition describes the identification of and the educational program for students with disabilities, EL students, low-achieving students, and high-achieving students. The districtwide plan utilizes tutorial workshops and self-paced instructional software.

Plan for Low-Achieving Students

The goal of Kingsburg ECSD is to accelerate mastery of content standards for students not meeting proficiency. These students are offered a variety of intervention programs and instructional strategies, including focused instruction in small groups, after-school tutoring, tutorial workshops during lunch, Advancement Via Individual Determination (AVID), small group differentiated learning centers within the classroom, and/or instruction from a resource teacher. Through the use of PLC, Kingsburg ECSD has developed and implemented RTI. The districts' RTI model is fluid and allows students to move in and out of classrooms and groups according to formative assessments used during weekly cycle of inquiry processes. The district uses a variety of methods to identify low-achieving students including standardized test scores, instructional software assessment, teacher observation, curriculum-based measurement, and academic grades.

Plan for High-Achieving Students

The Kingsburg ECSD district meets needs of high achieving students through programs and instructional strategies including but not limited to a Gifted and Talented Education (GATE) program, self-paced instructional software, and/or differentiated instruction. Students are identified via standardized test scores, specific testing for GATE, academic grades, instructional software assessments and teacher observation. Kingsburg ECSD uses formative assessment during a weekly cycle of inquiry to implement a deployment model where teams of teachers form groups of students that have mastered certain content standards. These students groups are given innovative opportunities such as web design, literature studies, service learning projects, and interactive simulations.

Plan for English Learners

The Kingsburg ECSD commits to meet all applicable legal requirements for EL students as they pertain to identification, notification, program options, and placement. EL students are constantly monitored and are provided strategies to strengthen academics. Identified students are provided instruction by teachers who have Crosscultural, Language, and Academic Development (CLAD), Bilingual Crosscultural, Language, and Academic Development certificate (BCLAD), English Language Development (ELD) and/or Specially Designed Academic Instruction in English (SDAIE) certification. Additional instructional strategies include peer and cross-age partnering and differentiated instruction.

Plan for Special Education Students

The Kingsburg ECSD recognizes its responsibility to comply and assures compliance with all state and federal regulations and laws affecting individuals with exceptional needs. Students can be referred to the special education process by a parent, teacher,

or a Student Study Team meeting. If appropriate and approved by the parent, a student is formally evaluated in accordance with state and federal law. The Kingsburg ECSD is an independent Local Educational Agency (LEA) for special education services and is a member of the Fresno County Special Education Local Planning Area (SELPA).

2. Measurable Pupil Outcomes	***EC* Section 47605(b)(5)(B)** **5 *CCR* Section 11967.5.1(f)(2)**
Evaluation Criteria Measurable pupil outcomes, as required by *EC* Section 47605(b)(5)(B), at a minimum:	
(A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.	Yes
(B) Include the school's API growth target, if applicable.	Yes
Does the petition present a reasonably comprehensive description of measurable pupil outcomes?	**Yes**

Comments:

The Kingsburg ECSD petition contains measurable pupil outcomes that measure student academic progress in the areas of the California Standards Tests (CSTs), benchmark assessments, and attendance.

The petition states that Kingsburg ECSD students will progress towards achieving the state content standards at a proficient or advanced level as measured by the CSTs in ELA and mathematics.

- Targets for percentage of students achieving proficient or advanced:
    - 2011–12 school year:
        - 75 percent of district students in grades two through eight will score proficient or advanced on the English Language Arts (ELA) portion of the CST

        - 78 percent of district students in grades two through eight will score proficient or advanced on the mathematics portion of the CST

    - 2012–13 school year:

        - 85 percent of district students in grades two through eight will score proficient or advanced on the ELA portion of the CST

        - 88 percent of district students in grades two through eight will score proficient or advanced on the mathematics portion of the CST

    - 2013–14 school year:

        - 100 percent of district students in grades two through eight will score proficient or advanced on the ELA portion of the CST as per No Child Left Behind (NCLB) or any new federally-mandated Common Core Standards

        - 100 percent of district students in grades two through eight will score proficient or advanced on the mathematics portion of the CST as per NCLB or any new federally-mandated Common Core Standards

    - 2014–15 school year:

        - 100 percent of district students in grades two through eight will score proficient or advanced on the ELA portion of the CST as per NCLB or any new federally-mandated Common Core Standards

        - 100 percent of district students in grades two through eight will score proficient or advanced on the mathematics portion of the CST as per NCLB or any new federally-mandated Common Core Standards

    - 2015–16 school year:

        - 100 percent of district students in grades two through eight will score proficient or advanced on the ELA portion of the CST as per NCLB or any new federally-mandated Common Core Standards

        - 100 percent of district students in grades two through eight will score proficient or advanced on the mathematics portion of the CST as per NCLB or any new federally-mandated Common Core Standards

- EL students will advance at least one fluency level each year as measured by the California English Language Development Test (CELDT) unless at the English proficient level, in which case they will maintain proficiency.

- All students will attend school daily.
    - For each school year during the term of this charter petition, students will achieve a minimum of 98 percent average daily attendance.

During the current charter term, 2006–11, the Kingsburg ECSD petition identified four measurable pupil outcomes. Below is a description and analysis from Kingsburg ECSD of the progress made toward the accomplishment of these outcomes.

1. All students will progress towards achieving the state content standards at a proficient or advanced level as measured by the CST in language arts, mathematics, science, and social studies at grade level.

   Outcome: Kingsburg ECSD had a district API of 784 in 2006. The district increased the API by 32 points for a 2010 growth API of 816. The Kingsburg ECSD increased the percentage of students identified as proficient or advanced over the four-year period. The district increased the percentage of students in grades two through eight identified as proficient or advanced in ELA. The district also increased the percentage of students in grades five and eight identified as proficient or advanced in science. Additionally, the district increased the percentage of students in grades two, four, five, and six identified as proficient or advanced in mathematics. Table 5 depicts district progress toward the percentage of students, performing or achieving proficient or advanced on the CSTs.

Table 5. Percent of Students Performing Proficient or Advanced on California Standards Tests

Grade	ELA		Mathematics		Science		Algebra 1		History	
	2006	2010	2006	2010	2006	2010	2006	2010	2006	2010
2	54	63	68	73						
3	38	48	59	57						
4	60	71	63	81						
5	44	52	59	70	40	50				
6	48	60	54	62						
7	53	59	60	59						
8	46	58	17*	16*	39	63	46	37	42	48

* Eighth grade students participate in the General Mathematics or Algebra 1 CST

2. All students will progress towards achieving at the proficient level as measured by the regularly administered benchmark assessments identified and used by each school site.

   Outcome: Over the last four years, Kingsburg ECSD has increased the percentages of students achieving at or above proficient on CST-aligned benchmarks, as documented in Table 6.

Table 6. Percentage of Students Achieving At or Above Proficient on District Administered California Standards Tests-aligned Benchmark Assessments				
	ELA		**Mathematics**	
2005–06	Had not converted to Data Director – no data			
	First Benchmark	**Last Benchmark**	**First Benchmark**	**Last Benchmark**
2006–07	67.21	67.79	49.56	69.91
2007–08	66.40	70.88	42.82	66.05
2008–09	68.24	72.90	70.04	68.17
2009–10	68.10	70.70	60.27	72.72

3. EL students will advance at least one fluency level each year as measured by the CELDT. The results of local English Language Development (ELD) benchmark assessments will be reported to parents of EL students at least annually as supplemental, comparative evidence of each EL student's progress toward proficiency in English.

   Outcome: EL students have demonstrated advancement in each of the prior four years. The district exceeded the Annual Measurable Achievement Objectives (AMAO) I and AMAO 2 for each of the past four years.

Table 7. Annual Measurable Achievement Objectives for English Learners			
	Annual Measurable Achievement Objectives I	**Annual Measurable Achievement Objectives 2**	
	Percent Met/Target Percent	**Percent Met/Target Percent**	
2005–06	50.8/52.0	29.9/31.4	
2006–07	50.9/48.7	33.3/27.2	
2007–08	53.5/50.1	35.8/28.9	
2008–09	52.6/51.6	34.6/30.6	
		< 5 years	**5+ years**
2009–10	58.9/53.1	23.0/17.4	52.9/41.3

4. All students will attend school daily and complete teacher assigned daily work.

   Outcome: The percentage of students attending school and completing assigned daily work has increased in three out of the last five years.

Table 8. Districtwide Average Daily Attendance	
Year	**Percent**
2005–06	98.68
2006–07	98.72
2007–08	99.15
2008–09	98.62
2009–10	99.36

3. Method for Measuring Pupil Progress	***EC* Section 47605(b)(5)(C)** **5 *CCR* Section 11967.5.1(f)(3)**
Evaluation Criteria The method for measuring pupil progress, as required by *EC* Section 47605(b)(5)(C), at a minimum:	

(A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at minimum, tools that employ objective means of assessment consistent with the measurable pupil outcomes.	Yes
(B) Includes the annual assessment results from the STAR program.	Yes
(C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.	Yes
Does the petition present a reasonably comprehensive description of the method for measuring pupil progress?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of the methods to be used for measuring student progress. Key methods of measuring student progress include:

- State-mandated assessments
- Local assessments and evaluations including teacher observation, state-adopted textbook assessments, teacher-developed assessments, and computer diagnostic assessments
- Student progress reports, standards-based report cards, and parent conferences
- Daily attendance and daily classroom work and homework
- Student portfolios

Results of these assessments are shared regularly with parents through the following means:

- Individual parent-teacher conferences
- Student STAR reports
- School Accountability Report Card
- School Web site

4. Governance Structure	***EC* Section 47605(b)(5)(D)** **5 *CCR* Section 11967.5.1(f)(4)**
Evaluation Criteria The governance structure of the school, including, but not limited to, the process…to ensure parental involvement…, as required by *EC* Section 47605(b)(5)(D), at a minimum:	
(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.	Yes
(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that: 1. The charter school will become and remain a viable enterprise. 2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians). 3. The educational program will be successful.	Yes
Does the petition present a reasonably comprehensive description of the school's governance structure?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of its governance structure. The five members of the Board of Trustees are elected by the district community. This election process is governed by state and local statute. All policies are enacted at public board meetings. Kingsburg ECSD encourages parents and community members to participate in the school site advisory councils of each school. The school site advisory councils are comprised of parents, community members, and staff. All members are elected by their peers. The role of each school site advisory council is to consult with parents and teachers regarding the site's educational program, consider parent suggestions and concerns, oversee curriculum and services, and participate in developing annual goals.

5. Employee Qualifications	***EC* Section 47605(b)(5)(E)** **5 *CCR* Section 11967.5.1(f)(5)**
Evaluation Criteria The qualifications [of the school's employees], as required by *EC* Section 47605(b)(5)(E), at a minimum:	
(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.	Yes
(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.	Yes
(C) Specify that all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.	Yes
Does the petition present a reasonably comprehensive description of employee qualifications?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of the Kingsburg ECSD employee qualifications. All of the Kingsburg ECSD teachers are deemed highly qualified under NCLB.

6. Health and Safety Procedures	***EC* Section 47605(b)(5)(F)** **5 *CCR* Section 11967.5.1(f)(6)**
Evaluation Criteria The procedures…to ensure the health and safety of pupils and staff, as required by *EC* Section 47605(b)(5)(F), at a minimum:	
(A) Require that each employee of the school furnish the school with a criminal record summary as described in *EC* Section 44237.	Yes
(B) Include the examination of faculty and staff for tuberculosis as described in *EC* Section 49406.	Yes; Technical Amendment Required
(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.	Yes

6. Health and Safety Procedures	***EC* Section 47605(b)(5)(F)** **5 *CCR* Section 11967.5.1(f)(6)**
(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.	Yes
Does the petition present a reasonably comprehensive description of health and safety procedures?	**Yes;** Technical Amendment Recommended

Comments:

The Kingsburg ECSD charter renewal petition meets the requirements of *EC* Section 47605(b)(5)(F). The CDE recommends that Kingsburg ECSD revise the health and safety procedures to include the requirement that volunteers and contractors, in addition to employees, will submit to a tuberculosis test and periodic testing thereafter.

7. Racial and Ethnic Balance	***EC* Section 47605(b)(5)(G)** **5 *CCR* Section 11967.5.1(f)(7)**
Evaluation Criteria Recognizing the limitations on admissions to charter schools imposed by *EC* Section 47605(d), the means by which the school(s) will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district…, as required by *EC* Section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.	
Does the petition present a reasonably comprehensive description of means for achieving racial and ethnic balance?	**Yes**

Comments:

The Kingsburg renewal petition meets the requirements of *EC* Section 47605(b)(5)(G). Table 9 details the demographic data of the district and the schools within the district.

Table 9. Demographic Data for Kingsburg Charter School District					
	Enrollment	**Hispanic or Latino***	**Socio-economically Disadvantaged***	**English Learners***	**Special Education ***
Demographics					
Kingsburg ECSD	2,330	56.5%	51%	14.9%	8%
Washington	270	63%	59.6%	25.2%	NA
Roosevelt	221	57.5%	55.6%	20.4%	NA
Lincoln	496	58.5%	55.6%	22.4%	8%
Reagan	724	59.6%	53%	15.9%	8.6%
Kingsburg Community Charter Extension	159	34%	15.9%	5%	4.4%
Island Community Day School	3	NA	NA	NA	NA
*Data from 2009–10 California Longitudinal Pupil Achievement Data System (CALPADS) NA = Not Applicable: Data not available or applicable to the subgroup as the group size is not numerically significant.					

Table 10 describes the demographic data of the school districts the students would otherwise attend.

Table 10. Demographic Data for Kingsburg Elementary Charter School and Surrounding School Districts				
	Kingsburg Elementary Charter School District	**Kings River Elementary School District**	**Clay Elementary School District**	**Selma Unified School District**
Demographics				
Enrollment*	2,330	678	237	6,369
Hispanic or Latino*	56.5%	32.0%	33.3%	85.8%
Socioeconomically Disadvantaged*	51%	34.7%	24.9%	79.6%
English Learners*	14.9%	13.0%	8.9%	41.6%
Special Education*	8%	6%	7%	11%
* Data from 2009–10 CALPADS				

8. Admission Requirements, If Applicable	***EC* Section 47605(b)(5)(H)** **5 *CCR* Section 11967.5.1(f)(8)**
Evaluation Criteria To the extent admission requirements are included in keeping with *EC* Section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of *EC* Section 47605(d) and any other applicable provision of law.	
Does the petition present a reasonably comprehensive description of admission requirements?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition describes admission requirements to be used at the school. Kingsburg ECSD commits to conducting a public random drawing if more applications are received than there is capacity.

9. Annual Independent Financial Audits	***EC* Section 47605(b)(5)(I)** **5 *CCR* Section 11967.5.1(f)(9)**
Evaluation Criteria The manner in which annual independent financial audits shall be conducted using generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the SBE's satisfaction, as required by *EC* Section 47605(b)(5)(I), at a minimum:	
(A) Specify who is responsible for contracting and overseeing the independent audit.	Yes
(B) Specify that the auditor will have experience in education finance.	Yes
(C) Outline the process of providing audit reports to the SBE, CDE, or other agency as the SBE may direct, and specifying the timeline in which audit exceptions will typically be addressed.	Yes
(D) Indicate the process that the charter school(s) will follow to address any audit findings and/or resolve any audit exceptions.	Yes
Does the petition present a reasonably comprehensive description of annual independent financial audits?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of the manner in which annual independent financial audits will be conducted.

- The district conducts an annual independent audit.
- The Fresno County Office of Education provides oversight and monitoring for Kingsburg ECSD's budgetary process and financial condition in accordance with the requirements of Assembly Bill 1200 (Chapter 1213, Statutes of 1991).
- The district complies with state financial reporting regulations and required financial reporting.
- Any audit exceptions and/or deficiencies are reported to the Kingsburg USD Board of Trustees and recommendations on how to resolve them are followed.

10. Suspension and Expulsion Procedures	***EC* Section 47605(b)(5)(J)** **5 *CCR* Section 11967.5.1(f)(10)**
Evaluation Criteria The procedures by which pupils can be suspended or expelled, as required by *EC* Section 47605(b)(5)(J), at a minimum:	
(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.	Yes
(B) Identify the procedures by which pupils can be suspended or expelled.	Yes
(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.	Yes
(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and	Yes

10. Suspension and Expulsion Procedures	***EC* Section 47605(b)(5)(J)** **5 *CCR* Section 11967.5.1(f)(10)**
visitors to the school and serve the best interests the school's pupils and their parents (guardians).	
(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D): 1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in…regard to suspension and expulsion. 2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.	Yes
Does the petition present a reasonably comprehensive description of suspension and expulsion procedures?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of suspension and expulsion procedures to be used by the school. The Kingsburg ECSD commits to comprehensive due process procedures for all pupils by utilizing a suspension and expulsion policy based upon *EC* Section 48900.

11. CalSTRS, CalPERS, and Social Security Coverage	***EC* Section 47605(b)(5)(K)** **5 *CCR* Section 11967.5.1(f)(11)**
Evaluation Criteria The manner by which staff members of the charter schools will be covered by the California State Teachers Retirement System (CalSTRS), the California Public Employees Retirement System (CalPERS), or federal social security, as required by *EC* Section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.	
Does the petition present a reasonably comprehensive description of CalSTRS, CalPERS, and social security coverage?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for the coverage have been made.

12. Public School Attendance Alternatives	***EC* Section 47605(b)(5)(L)** **5 *CCR* Section 11967.5.1(f)(12)**
Evaluation Criteria The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by *EC* Section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupil 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.	
Does the petition present a reasonably comprehensive description of public school attendance alternatives?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of the public school alternatives available to Kingsburg ECSD students. Kingsburg ECSD has letters of agreement from Clay Elementary School District and Selma Unified School District assuring that students not wishing to attend Kingsburg ECSD may be enrolled it these other districts (see pages 32–33 of Attachment 2).

13. Post-employment Rights of Employees	***EC* Section 47605(b)(5)(M)** **5 *CCR* Section 11967.5.1(f)(13)**
Evaluation Criteria The description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by *EC* Section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:	
(A) Any rights upon leaving the employment of an LEA to work in the charter school that the LEA may specify.	Yes
(B) Any rights of return to employment in an LEA after employment in the charter school as the LEA may specify.	Yes

13. Post-employment Rights of Employees	***EC* Section 47605(b)(5)(M)** **5 *CCR* Section 11967.5.1(f)(13)**
(C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the SBE determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.	Yes
Does the petition present a reasonably comprehensive description of post-employment rights of employees?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of the post-employment rights of Kingsburg ECSD employees.

14. Dispute Resolution Procedures	***EC* Section 47605(b)(5)(N)** **5 *CCR* Section 11967.5.1(f)(14)**
Evaluation Criteria The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to the provisions of the charter, as required by *EC* Section 47605(b)(5)(N), at a minimum:	
(A) Include any specific provisions relating to dispute resolution that the SBE determines necessary and appropriate in recognition of the fact that the SBE is not a LEA.	Yes
(B) Describe how the costs of the dispute resolution process, if needed, would be funded.	Yes
(C) Recognize that, because it is not a LEA, the SBE may choose resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State Board of Education intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.	Yes
(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with *EC* Section 47604.5, the matter will be addressed at the SBE's discretion in accordance with that provision of law and any regulations pertaining thereto.	Yes

14. Dispute Resolution Procedures	***EC* Section 47605(b)(5)(N)** **5 *CCR* Section 11967.5.1(f)(14)**
Does the petition present a reasonably comprehensive description of dispute resolution procedures?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition presents a reasonably comprehensive description of the dispute resolution procedures between Kingsburg ECSD and the SBE. Kingsburg ECSD and the SBE will resolve disputes relating to provisions of the charter, as required by *EC* Section 47605(b)(5)(N).

15. Exclusive Public School Employer	***EC* Section 47605(b)(5)(O)** **5 *CCR* Section 11967.5.1(f)(15)**
Evaluation Criteria The declaration of whether or not the district shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (EERA) (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the *Government Code*), as required by *EC* Section 47605(b)(5)(O), recognizes that the SBE is not an exclusive public school employer and that, therefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the EERA.	
Does the petition include the necessary declaration?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition makes clear that Kingsburg ECSD shall be deemed the exclusive public school employer of charter school employees for the purposes of the EERA.

16. Closure Procedures	***EC* Section 47605(b)(5)(P)** **5 *CCR* Section 11967.5.1(f)(15)(g)**
Evaluation Criteria A description of the procedures to be used if the charter school closes, in keeping with *EC* Section 47605(b)(5)(P). The procedures shall ensure a final audit of the school to determine the disposition of all assets and liabilities of the charter school, including plans for disposing of any net assets and for the maintenance and transfer of pupil records.	
Does the petition include a reasonably comprehensive description of closure procedures?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition includes a reasonably comprehensive description of closure procedures pursuant to *EC* Section 47605(b)(5)(P) and 5 *CCR* sections 11962 and 11962.1.

ADDITIONAL REQUIREMENTS UNDER *EC* SECTION 47605

Standards, Assessments, and Parent Consultation	***EC* Section 47605(c)** **5 *CCR* Section 11967.5.1(f)(3)**
Evaluation Criteria Evidence is provided that:	
(1) The school shall meet all statewide standards and conduct the pupil assessments required pursuant to *EC* sections 60605 and 60851 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in non-charter public schools.	Yes
(2) The school shall, on a regular basis, consult with their parents and teachers regarding the school's educational programs.	Yes
Does the petition provide evidence addressing the requirements regarding standards, assessments, and parent consultation?	**Yes**

Comments:

The Kingsburg ECSD charter renewal petition states that Kingsburg ECSD will meet all statewide standards and conduct all state-mandated pupil assessments. The petition also includes a commitment by Kingsburg ECSD to consult regularly with parents and teachers regarding the school's educational programs.

Employment is Voluntary	***EC* Section 47605(e)** **5 *CCR* Section 11967.5.1(f)(13)**
Evaluation Criteria The governing board…shall not require any employee…to be employed in a charter school.	
Does the petition meet this criterion?	**Yes**

Comments:

The petition states that no public school district employee shall be required to work for the charter school district.

Pupil Attendance is Voluntary	***EC* Section 47605(f)** **5 *CCR* Section 11967.5.1(f)(12)**
Evaluation Criteria The governing board…shall not require any pupil…to attend a charter school.	
Does the petition meet this criterion?	**Yes**

Comments:

The petition states that enrollment at Kingsburg ECSD is entirely voluntary on the part of the pupils.

Kingsburg Elementary Charter School District

CDS Code: 10 62240

Charter Renewal Application

2011 - 2016

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Kingsburg Elementary Charter School District

I. RATIONALE/FOUNDING GROUP

The Kingsburg Elementary Charter School District (2,347 student enrollment) serves a unique rural community of approximately 12,000 people in the Central San Joaquin Valley. It is a town where parents, teachers, administrators, and community members have committed themselves to a high standard of education for their children. The community's city government and the school district have cooperated to co-develop city parks in conjunction with school playgrounds, co-sponsored after school programs and participate on each other's planning teams. Local citizens and businesses have donated tennis courts, trees, playground equipment, and even school supplies and clothing for needy students. The student population of the district is a mixture of children of farm workers and farmers; doctors, nurses, and hospital custodians; small and large business owners; factory workers; sales people; and teachers. The diversity is broad; however, as diverse as the backgrounds may be, the town's citizens are singularly committed to the education of its children. The school district, in existence since 1874, takes pride in meeting the needs of all its students, and, as a result, the district enjoys the overwhelming support of its parents, teachers, staff and the community at large.

The district's schools foster a secure, friendly, environment in which students experience a wide variety of learning activities through reading labs; growing technology; experimental science activities; music, arts and crafts; and competitive athletics, as well as the fundamentals of basic education. Parents, teachers, and administrators frequently work together on school issues and projects, including school structure, curriculum, school environment, and a variety of activities aimed at student success and maintaining the schools as a center of community events.

In 1996, the Kingsburg Joint Union Elementary District became the second charter school district in the state. Since its inception, as the Kingsburg Elementary Charter School District, the district has experienced growth in ADA primarily from parents moving into the city for the sole purpose of having their children attend Kingsburg schools; increased test scores; expansion of programs, services, and offerings for students; and has seen an enhanced enthusiasm for "pushing the envelope".

The following charter petition proposal is a reflection of the support expressed by the district's employees and the citizens of Kingsburg. It also reflects the constant efforts of the district to prepare students to become productive citizens in the 21st century. The district motto: "Kaizen – What can I do better today than I did yesterday?" is lived daily in taking to heart the challenge of preparing children to communicate effectively; gather, use, and produce information; make informed, responsible decisions; become life-long learners; and enthusiastically embrace challenges and responsibilities. Placed in the context of creating profession learning communities, these over-riding concepts are encouraged by the support of parents and families, drawing its standards from the traditional small-town atmosphere so cherished by the citizens of Kingsburg. Indicators of this support include:

- 100% of the parents sign the Parent/Student/Charter District Compact
- 100% of the credentialed employees in the district support working in the charter district
- 100% of the classified employees support working in the charter district
- There is a waiting list of over 100 non-resident students requesting attendance in the district

It was held by all stakeholders in the initial charter petition, and continues to be held today, that being a charter would set the school district apart and make it even more special in the educational community. The innovative and effective education programs, which include music and art as well as career technology and STEM implementation has brought all regular education school to an API of 800 or over. The charter fosters innovation in the area of literacy development and technology. The opportunity to have more flexibility with programs and staffing, combined with open enrollment were powerful motivators in meeting the needs of students and parents in the rural backdrop of Kingsburg. Open enrollment has been a signature practice of the charter since its inception. Parents and students are welcome from all districts, and students that reside in Kingsburg have the opportunity to transfer any other district without going through the transfer process. Our academic program must be superior, effective and innovative for all students in order for our enrollment to increase and meet the needs of more families. The charter allows us to affect the lives of more families and students. In this community, parents truly feel they are ultimately responsible for the education of their children. Through this charter, the district becomes partners in the education of their students. The individual responsibilities of each group – parents, district, and students – are enumerated in

the Charter District/Parent/ Student Compact, making it everyone's job to ensure student growth and achievement. Each year, this compact represents 100% parent and student participation.

Kingsburg is structured as a community aligned school system instead of a neighborhood school system. (Please see Table 1 in section VI.) All of the students move through the grade levels as one unit. This allows each grade level to provide the most effective education program because of the unity formed with each stakeholder in the district and community. For families that want an alternative type of education program, there are other choices including Island Community Day School and Kingsburg Community Charter Extension School. It is the desire of the community (frequently reiterated in annual parent surveys) to maintain its K-8 continuity structure. By mandated necessity, as seen by the community, the structure of the district's schools dictates that if one school is a charter, the expectation is that all schools have charter status, thus virtually requiring the need that if there is going to be a charter, then it must be an all-charter district.

Kingsburg Elementary Charter School District has demonstrated what a 'stand alone' district can accomplish as a charter. Through our flexibility, implementation of researched-based programs and change has allowed us to ensure the highest quality of education and educational opportunities are quickly put in place for our students. The community and staff has embraced the charter status and developed into a community-wide professional learning community that proudly stands together for each and every member of the community. One example of this commitment is exemplified by the development of Island Community Day School. Instead of sending students to county programs, Kingsburg wants to keep its students to rehabilitate them through restorative justice and maintenance of their academic programs. Kingsburg is the only K-8 district in Fresno County with a Community Day School.

This five-year charter petition renewal challenges the district to evaluate, improve, and to be accountable. It is worth noting that the district is seeking its fourth five-year cycle as an all charter district. The district's status as an all-charter district has become a core value in both our school system and the community at large. Another way to look at the district's involvement as a charter may be to note that no child who has started kindergarten in this school district has ever known or experienced a school system that is not a charter system. From our mindset to our conversations to even the visual representations on the side of our school buses, we proclaim Kingsburg Elementary Charter School District as a source of pride from who we are and what we have become. Being a charter district represents a clear and encouraging call to a 'can-do' spirit at willingness to pursue what is best for children.

II. EDUCATIONAL PHILOSOPHY AND PROGRAM

Mission Statement

The Kingsburg Elementary Charter School District, recognizing the value of each child, will continually strive to inspire students to learn and grow beyond their potential by:

- Fostering a collegial or team atmosphere between home, community, and school for the benefit of each student
- Imparting a quality education combined with a positive learning experience
- Providing instruction that meets the individual needs of each student
- Developing the learning and social skills necessary for lifelong learning including, but not limited to, secondary, post-secondary, and career education
- Presenting an open-door policy allowing all people concerned with the well being of each student to communicate their ideas about improving the district

Educational Philosophy

The Kingsburg Elementary Charter School District parents, staff, and students believe in:

- Fostering a team atmosphere with the community (currently called Professional Learning Communities), which benefits the student
- Nurturing student success within a safe school environment

- Preserving the traditional small-town atmosphere
- Promoting high expectations
- Enabling all students to learn by recognizing each student learns differently
- Promoting parental involvement and parental choice as essential elements of a quality educational experience

The district's schools foster a secure, friendly, environment in which students experience a wide variety of learning activities through reading labs; increased technology usage; lab specific and hands-on science activities; music, arts and crafts; and competitive athletics, as well as the fundamentals of basic education. Parents, teachers, and administrators frequently work together on school issues and projects, including school structure, curriculum, school environment, and a variety of activities aimed at student success and maintaining the schools as a center of community events. A parent-signed compact for participation is required for each student enrolled in the district. The district has a standing philosophy recognizing parent choice as paramount to student achievement.

The Kingsburg Elementary Charter School District believes that an educated person in the 21st century is a confident, lifelong learner who can communicate successfully, think creatively, reason logically, manage resources effectively, and contributes talents, strengths, and abilities to the community.

The Kingsburg Elementary Charter School District believes that learning best occurs when:

- Instructional activities are meaningful and, where appropriate, integrated
- Assessments are used as a diagnostic tool to guide instruction and as an accountability tool to ensure academic mastery
- Curriculum and instruction reflect a rich and appropriate balance of direct instruction, reading, and activities that help provide real-life context
- Expectations and accountability are high
- Parents are involved in the educational process
- Students are given opportunities to make responsible decisions
- Students are respected and their input is acknowledged, valued, and promoted
- Students feel safe and secure in their learning environment
- Students are enriched through access to technology, field trips, exposure to the visual and performing arts, and extra curricular activities

Students to be Served

The district offers options to students and families choosing a highly accountable, customized educational program. The district is dedicated to serving all K-8 students who desire an education that meets student needs through classroom and/or personalized instruction. The district is nonsectarian and nondiscriminatory by gender, ethnicity, religion, national origin, ability, disability, or place of residence. Kingsburg Elementary Charter School District services students who reside in the district's boundaries of Fresno and Tulare Counties and Kingsburg Community Extension School students living in counties adjacent and contiguous to Fresno, Tulare and Kings Counties, as specified in California charter school law and regulations.

The charter district will retain the existing K-8 grade level configuration of the district to ensure racial and ethnic balance that is reflective of the general population residing within the historical attendance area of the district. Admission to the district is open to all students who reside within the boundaries of the school district. Open enrollment is allowed for students residing outside the district's attendance boundaries. Out of district requests are reviewed by the Superintendent/Principal and a recommendation is taken to the Board of Trustees at a regularly scheduled Board meeting or action. Student openings available to non-residents are filled by lottery to ensure fairness.

Kingsburg Elementary Charter School District

Curriculum and Instructional Design

Five of the district's schools specialize in specific grade levels, these students move through each grade level and school as cohort. Washington School serves pre-school, transition kindergarten and kindergarten, Roosevelt School serves the grade 1, Lincoln School serves grades 2 and 3, Reagan School serves grades 4-6, and Rafer Johnson Junior High serves grades 7-8. This grade-level configuration insures a consistent, innovative and effective education for all students across each grade level. It also allows teachers and administrators to focus their efforts and training on the specific needs of children at their particular grade levels, providing an excellent avenue for collaboration in our Professional Learning Communities (PLC). Kingsburg Elementary Charter School District has fully embraced PLC as a signature practice that is innovative and ensures an effective educational program for all students. Within the PLC, each grade level has developed common formative assessments which are used during weekly during a cycle of inquiry process for data based decision making for each classroom, program and student. The charter status allows the district to move to repaid implementation of PLC which has resulted in a spike in achievement at several grade levels and within several sub-groups. During each trimester, each grade level, K-8 gives a benchmark assessment that has a .72 to .82 correlation thus insuring a very strong predictability rate to the Content Standards Test (CST) according a study completed by the research department in the school of education at California State University, Fresno. The benchmark assessments along with the common formative assessments are used weekly to inform teachers about instruction needs of students. At both Lincoln and Reagan Schools, these benchmark and assessment results drive the RTI model and instructional needs of our students. This focus of benchmark results used to target achievement resulted in a 41 point increase at Reagan which ensured Safe Harbor status. The expectation based on current benchmark results is that Reagan will be exited from program improvement status and Lincoln will enter Safe Harbor status. In Kingsburg, our fidelity is to students and student achievement, our status as a charter district confirms that fidelity.

A sixth school, Kingsburg Community Charter Extension, offers a complete K-8 curriculum to students through a personalized instruction model built under the guidelines of Independent Study. A seventh school, Island Community Day School, allows district students who are expelled to maintain their academic progress in a safe and excellent educational alternative.

The district curriculum is based on the California State Standards and covers all core content disciplines. The instructional program has been designed using California grade level content standards and curriculum frameworks. State adopted textbooks are used in all classrooms and programs and in all core curriculum subjects (Attachment A). California standards-based materials are often supplemented with a variety of time-tested curriculum choices in order to accommodate a child's complex learning needs.

Plan for Students Who Are Academically Low Achieving

While ensuring that the achievement of all students continues to rise, one of the district's primary goals for the next 5 years is to continue the narrowing of the 'achievement gap.' This goal will be realized by accelerating the mastery of content standards by students at or below the 'basic' level of performance. In that regard, a couple of extremely important additions to the district's focus on excellence are: continued practice and training in the Professional Learning Communities model as advocated by research collected Drs. Rick and Becky DuFour, the application of the 10-point intervention process as advised by DuFour and Marzano, and the continuance of the Best Practices meetings in which administrators and teachers collaborate and disseminate educational best practices throughout the district classrooms.

Through the use of PLC, Kingsburg has developed and implemented a response to intervention model (RTI). This model requires a very specific plan for all students that may not have achieved mastery of the standards that first time they are taught in a classroom. The RTI model is fluid and allows students to move in and out of classrooms and groups according to the specific instructional of each student. Each school site has a section of time set aside for deployment that supplements the core program. Our RTI model has three tiers (see attachment) and each tier has a more intensive level of support for each student. Each program and student is monitored closely using data every week to two weeks to ensure that they are moved to grade level proficiency. Along with the academic side of the RTI model, the charter status allows us to meet the behavioral and emotional needs of students through the use of a district certified counselor.

The district is meeting the needs of academically low achieving students through a variety of intervention programs and instructional strategies. For example, under the immediate supervision and direction of a fully credentialed teacher, low achieving students may receive focused instruction in small groups (or even one-to-one) with paraprofessional educators or, in some cases, with trained classroom volunteers. Other intervention programs may include after-school tutoring, tutorial workshops, after-school tutoring, tutorial workshops during lunch, AVID, small group differentiated learning centers within the classroom, and/or instruction from a resource teacher. The Student Study Team (SST) process is used to identify students who need alternative interventions to enhance learning. These students are identified through one or more of the following methods: standardized test scores, instructional software assessment, teacher observation, curriculum-based measurement, academic grades, and/or other school-approved screening criteria.

Plan for Students Who Are Academically High Achieving

The district meets the educational needs of academically high achieving students through programs and instructional strategies including but not limited to: Gifted and Talented Education (GATE), self-paced instructional software, and/or differentiated instruction. These students are identified through one or more of the following methods: standardized test scores, GATE testing, instructional software assessments, teacher observation, academic grades, and/or other school-approved screening criteria. Through the use of Professional Learning Communities, Kingsburg answers the question, "How do we respond when students already have learned the content and skills to mastery?" This answer is addressed daily through the deployment model used at every school. Using data from common formative assessments, teams of teachers from groups of students that have mastered the content standards taught and assessed. This group of students is given innovative opportunities such as web design, engaging in literature studies, service learning projects, and interactive simulations. Each month, these groups change, this gives all students the opportunity to receive an enriching educational experience.

Plan for English Learners

The district identifies English Language Learners (ELL) through the Home Language Survey. These students are assessed using the California English Language Development Test (CELDT). The district's goal is that English language learners will process academically at the same rate as all other students. These students are one of the highlighted groups in which the district is targeting. These students are being constantly monitored and the district's staff is provided strategies to strengthen these students' academics. Students that are identified as ELL are assisted through a variety of instructional strategies and programs that include: instruction by teachers who have CLAD or BCLAD certification, English Language Development (ELD) and/or Specially Designed Academic Instruction in English (SDAIE) certification. Our ELD program will demonstrate the same average rate of improvement in proficiency on the annual CST's and the same average rate of growth on the common formative assessments and benchmark assessments as the rest of the student population. The percentage of charter ELL students that are redesignated to English proficiency will be greater than the median for comparison schools. The conformation of the success of this plan is evident in our charter district because only 15% of the districts in the state of California made all of their Annual Measurable Achievement Objectives (AMAO) targets in all four areas for ELL students, and Kingsburg was one these high performing districts that achieved their targets.

Kingsburg Elementary Charter School District uses "Sheltered Instructional Observation Protocol (SIOP) as their instructional platform. SIOP is designed to specifically meet the needs of English language learners. The district's commitment to ELL students is further confirmed with on-going monitoring of achievement with walk-throughs and continuous coaching for excellence. Other instructional strategies are peer or cross-age partnering and differentiated instruction.

Plan for Special Education

The district understands its legal responsibility to provide educational services to students who qualify for special education programs. The district has a Special Education department through which it can directly provide necessary programs and services to many of its students with disabilities. Moreover, the district is a member of the Fresno County Special Education Local Plan Area (SELPA). Through the Fresno County SELPA, the district ensures that the complete array of programs and services is available to meet the needs of students with severe disabilities.

The process used to identify students for special education services is as follows: Students can be referred by parent and/or teacher or through Student Study Team (SST) meeting. If the student needs to be evaluated for special education services, a formal evaluation, approved by the parent/legal guardian, will be given. All assessments (behavior, health, psychometric, and/or academic) will be performed in accordance to state and federal law.

An Individualized Education Program (IEP) meeting will be held to determine the programs or services a student may need. Each disabled student will be placed in appropriate programs and provided appropriate services in relation to his or her needs, as set forth in the student's written IEP. The student's progress toward meeting the IEP's goals will be monitored and assessed regularly in accordance with state and federal law.

The RTI instructional process meets that needs of special education students through close analysis of assessment data and responding through targeted intervention. The early literacy intervention model and transitional kindergarten programs insure that special education students are performing at the same level of regular education students.

Plan for Kingsburg Community Charter Extension

The district has noted a generally un-served population of children within the tri-county area of the school district (Fresno, Tulare and Kings Counties). These are children whose parents/guardians desire by choice or by family circumstances to maintain the control of their child's education by home schooling them. The reasons behind this desire vary almost as much as the number of families themselves. Religion, a general distrust of public education and government in general, past discouraging involvement in the public school setting, family circumstances leading to keeping the children home as a significant need, and student health issues are among the more frequent reasons.

To address the concerns of these families, the district will continue a public education opportunity through Independent Study program that will 1) provide students with a rigorous, standards-based curriculum; 2) highly-qualified credentialed teachers as an on-going support provider who will advise parents, set academic pacing, ensure on-going assessment within that rigorous curriculum; and for those with such concerns 3) rebuild the bridge between these families and public education.

The district has developed a strategy that is intended to accomplish the following:

- Re-engage these parents (and by default their children) with public education.
- Enable parents, who truly want to be their child's teacher, to have at their disposal a rigorous, standards-based curriculum that will build a foundation for the continued academic success of the student. This concept will provide a Free and Appropriate Public Education (FAPE) to which the students are entitled.
- Provide activities and events that would promote inter-student socialization.
- Build a pathway by which those parents who so desire can re-enter a public school site-based program.
- Build self-worth within the homeschooled families that their education choice has value and will promote the future success of their children.
- Develop a system whereby parent choice is not only welcomed, but re-enforced and supported.

District staff has developed a system whereby the family unit (parents/guardians and children) are assigned to, and receive the full support of, a fully credentialed, highly qualified teacher. This access is available to parents virtually 12-15 hours a day, 7 days a week. These teachers help develop teaching skills in parents. Under the teachers' guidance parents learn how to develop lesson plans, are shown pedagogy that enhances the child's learning, value a rigorous curriculum and the resulting benefits, embrace data collection as a means of monitoring their child's progress, seeing the context and need of a scope and sequence that lead to their child's success as an effective home school teacher.

Kingsburg Community Charter Extension will provide:

- State adopted curriculum and textbooks.
- Every family unit will also receive teacher's editions of the selected texts. These editions will be used constantly by the parent and the supporting district credentialed teacher.

- Pacing guides that will help parents stay on track with both the progress of the school year and the state testing calendar.
- All students will participate in several site-based school mandates including:
  - District math facts expectations in addition, subtraction, multiplication, and division leading to student automaticity
  - Quarterly benchmark assessments whereby students remediate standards not yet mastered and review standards they have, monthly standards assessments through formative assessments based on grade level standards.
    - If the standard is mastered, the standard is constantly reviewed for the duration of the school year.
    - If the standard is not mastered, it is re-taught and reassessed.
  - Supplemental materials will be provided to parents and students to assist in the improvement of each student's understanding of the writing process and the different genres including those the state will assess.
  - Professional Learning Communities will provide a constant communication between parents, teachers and administration about the continued improvement of student learning.
  - School staff will constantly assess:
    - What is it students must learn?
    - What knowledge and skills are expected of the students to acquire as a result of a unit of instruction?
    - How will it be identified that each student is learning each of these skills and essential concepts?
    - What is the response if students do not learn?
    - What process will we put in place to insure students receive additional time and support for learning in a timely, directive, and systematic way?
- RTI Model will be implemented based on assessment data to ensure the highest level of achievement is accomplished for all students.

III. MEASURABLE STUDENT OUTCOMES AND OTHER USES OF DATA

Measurable Student Outcomes

The district's beliefs and goals state that all students will receive an excellent education, instruction that meets individual needs, and that all students can learn and will be respected. Student performance will be assessed using a variety of measures to demonstrate the extent that all pupils have attained the skills and knowledge to progress successfully.

Stated in the district's educational philosophy is the belief that all students can learn and they learn in different ways. Kingsburg Elementary Charter School District is committed to an academic program which promotes a high level of student achievement based upon each student's needs, through a rigorous curriculum with high expectations and support. In keeping with the educational philosophy the district's measurable student outcome goals are for district students become sufficiently proficient in the core subjects of English-language arts, mathematics, science, and history-social science, as well as physical education, to enter high school without need of any remedial coursework:

- All district students will progress towards achieving the state content standards at a proficient or advanced level as measured by the California Standards Tests in Language Arts and Mathematics at the grade levels determined by the California Department of Education.
  - Targets for percentage of district students achieving above Basic as follows or meets criteria for Safe Harbor:
    - For the 2011-2012 school year:
      - 75% of district students in grades 2 -8 will score proficient or advanced on the ELA portion of the CST

        - 78% of district students in grades 2 -8 will score proficient or advanced on the Math portion of the CST
    - For the 2012-2013 school year:
        - 85% of district students in grades 2 -8 will score proficient or advanced on the ELA portion of the CST
        - 88% of district students in grades 2 -8 will score proficient or advanced on the Math portion of the CST
    - For the 2013-2014 school year:
        - 100% of district students in grades 2 -8 will score proficient or advanced on the ELA portion of the CST as per NCLB or possibly moving toward the new Federal-mandated Common Core Standards
        - 100% of district students in grades 2 -8 will score proficient or advanced on the Math portion of the CST as per NCLB or possibly moving toward the new Federal-mandated Common Core Standards
    - For the 2014-2015 school year:
        - 100% of district students in grades 2 -8 will score proficient or advanced on the ELA portion of the CST as per NCLB or possibly moving toward the new Federal-mandated Common Core Standards
        - 100% of district students in grades 2 -8 will score proficient or advanced on the Math portion of the CST as per NCLB or possibly moving toward the new Federal-mandated Common Core Standards
    - For the 2015-2016 school year:
        - 100% of district students in grades 2 -8 will score proficient or advanced on the ELA portion of the CST as per NCLB or possibly moving toward the new Federal-mandated Common Core Standards
        - 100% of district students in grades 2 -8 will score proficient or advanced on the Math portion of the CST as per NCLB or possibly moving toward the new Federal-mandated Common Core Standards

- English language learners will advance at least one fluency level each year as measured by the CELDT unless at the English proficient level in which they will maintain that level.
    - For the 2011-2012 school year:
        - Overarching Goals for ELL students:
            - The increase in percentage points of students scoring beginning, early intermediate, and intermediate on the CEDLT is 1.25 times the median increase for comparison districts.
            - The increase in percentage points of students scoring Early Advanced and Advanced on the CELDT is 1.25 times the median increase for the comparison districts.
    - For the 2012-2013 school year:
        - Overarching Goals for ELL students:
            - The increase in percentage points of students scoring beginning, early intermediate, and intermediate on the CEDLT is 1.25 times the median increase for comparison districts.
            - The increase in percentage points of students scoring Early Advanced and Advanced on the CELDT is 1.25 times the median increase for the comparison districts.
    - For the 2013-2014 school year:
        - Overarching Goals for ELL students:
            - The increase in percentage points of students scoring beginning, early intermediate, and intermediate on the CEDLT is 1.25 times the median increase for comparison districts.
            - The increase in percentage points of students scoring Early Advanced and Advanced on the CELDT is 1.25 times the median increase for the comparison districts.

    - For the 2014-2015 school year: no established percentages from state
    - For the 2015-2016 school year: no established percentages from state

- All students will attend school daily.

- For each school year, during the term of this charter petition, district students will achieve a minimum of 98% Average Daily Attendance

Academic Performance Index

The district's plan for achieving API annual growth targets include:

- An annual review of each student's progress
- Annually review each school's benchmark assessments to ensure they are correlated with the state content standards
- Establish quarterly benchmark assessment calendar to chart progress of each student's academic achievement
- Continue to provide timely and relevant professional development for all staff members
- Identify all students who score below the proficient level on the CST and provide specific intervention to ensure academic progress
- Purchase standards based curricula and other instructional and supplemental materials, as needed
- Investigate new technology that will strengthen the instructional program
- Continue grade level meetings to ensure continued improvement of the instructional program
  (See the Academic Performance Index Reports (Attachment B) for historical data.)

Methods of Assessment

Student progress in meeting the desired student outcomes is measured and evaluated through a variety of methods:

1. State mandated assessments
2. Local assessments and evaluations - schools in the district will conduct local assessments and evaluations that may include:
   a. Teacher observation emergent literacy survey (K-1)
   b. Houghton Mifflin Cycle of Inquiry
   c. State adopted textbook assessments
   d. Teacher developed assessments
   e. Advantage Learning's Accelerated Reader computer diagnostic assessments
   f. Advantage Learning's STAR reading standardized computer assessments
   g. Portfolio conference with parents
   h. Informal and formal parent conferences throughout the year
   i. School progress reports
   j. Standards-based report cards
   k. Daily attendance
   l. Daily work and homework completion
   m. Benchmark tests:
      i. Harcourt Math
      ii. Dynamic Indicators of Basic Early Literacy Skills (DIBELS) – Pre-Kindergarten – 3rd Grade
      iii. Houghton Mifflin Theme tests and writing assessments
      iv. Scantron's Ed. Performance assessments in Language Arts and Mathematics
      v. District Benchmark Assessments for grades K-8, given three times a year.

Use and Reporting of Data

Data on student achievement are collected, analyzed, and reported to school staff and parents through the following measures.

1. Methods of collecting data:
   a. Aeries data management and Data Director software to collect data from state assessments, local benchmark assessments, and classroom assessments
   b. Data reports provided by the state as part of STAR

   c. Teacher collected data: performance on daily work, teacher observations, homework, portfolios, projects and student attendance
   d. Advantage Learning's STAR Reading reports
2. Forums for analyzing data:
   a. Teacher analysis of collected student data
   b. Grade level meetings
   c. Vertical math and language arts meetings
   d. Parent-teacher conferences
   e. Staff meetings
   f. Intervention teams
   g. Student Study Teams
   h. Administrative leadership meetings
   i. School site councils
   j. School Board meetings
3. Means of reporting data:
   a. Student STAR Reports
   b. Parent conferences
   c. Aeries' web-based ABI for parents and students
   d. Media reporting
   e. Board meetings
   f. School Accountability Report Cards
   g. School web site http://www.kingsburg-elem.k12.ca.us

Data on student performance are continuously being analyzed by school staff and used to improve the total educational program so all students can progress to meet the district proficiency outcomes.

IV. GOVERNANCE STRUCTURE

The district's governing structure is directed by a publically elected Board of Trustees, consisting of five (5) members, retaining the existing terms and qualifications. The current election process for the Board of Trustees, as governed by state and local statute, will remain in place. The ultimate authority for the governance of the district will remain with this elected Board of Trustees. Policies will continue to be enacted at public board meetings.

- Superintendent has primary responsibility for implementing district vision, policies, and operation
- The day-to-day operations of schools within the district are the responsibilities of the school site principal in accordance with the school specific operational plan

The Board of Trustees actively seeks and enthusiastically welcomes parent input on a wide range of topics, from curriculum and instruction, to assessment and accountability, to school operations, to budget and finance. The following forums are regularly provided for parent input:

- Meetings of the Governing Board are posted at each school site, the district web-site and in both the school and district calendars. To encourage parent and community attendance individual students, student clubs, competitive teams and students involved in visual and performing arts are frequent participants in these meetings.
- Additionally, the Governing Boards periodically holds special meetings to which parents are specifically invited. These meetings include potential changes in dress code, budgetary prioritization, building projects, as well concerns that occur in the community at large.
- School site advisory councils are composed of parents/community members and staff elected by their peers with the role of each school site advisory council to:
  - consult with parents and teachers regarding the site's educational program
  - consider parent suggestions and concerns
  - oversee curriculum and services
  - participate in developing annual goals

V. HUMAN RESOURCES

In order to be creative and flexible in providing an optimal learning environment, the district will have policies and procedures for all those who work with children. These policies and procedures will be reflected in the district's hiring practices, evaluation methods, and professional development.

- Superintendent and Assistant Superintendent
  The superintendent and assistant superintendent must hold a valid California administrative services credential. The superintendent is employed by and responsible to the Board of Trustees. The assistant superintendent is hired by and responsible to the superintendent. The superintendent and assistant superintendent shall have a criminal background check performed pursuant to Education Code Section 44830.1 along with all other employee hiring considerations and requirements defined in this document.

- Principal
  The principal must hold a valid California administrative services credential and a valid California teaching or comparable credential along with the experience and skills required to fulfill the responsibilities of the position. The principal is employed by the Board of Trustees and is responsible to the superintendent. The principal shall have a criminal background check performed pursuant to Education Code Section 44830.1 along with all other employee hiring considerations and requirements defined in this document.

- Teachers/ Directors/ Coordinators
  Classroom teachers and coordinators must hold valid California teaching credentials. All teachers and coordinators are NCLB compliant. They are employed by the Board of Trustees and are responsible to the principal and superintendent. Teachers shall have a criminal background check performed pursuant to Education Code section 44830.1 along with all other employee hiring considerations and requirements defined in this document.

- Classified Personnel
  All classified personnel must meet the qualifications and standards established for employment and are responsible to the superintendent and principal. All classified employees shall have a criminal background check performed pursuant to Education Code Section 44830.1 along with all other employee hiring considerations and requirements defined in this document.

The district will ensure teachers and instructional aides meet the "highly qualified" designation as set forth in the No Child Left Behind Act of 2001. In addition, it is expected that all employees of the district have a solid understanding of and commitment to the importance of student success and a commitment to a collaborative partnership.

The district will have the option of entering into agreements with local colleges and universities in order to become a professional development district. These agreements would allow college students in neighboring areas to do observations or student teaching in the district. This would further allow classes to be offered for student teachers and interested staff in the district. Furthermore, instructors in the district would have access to the supervisors of student teachers and to course work leading to their credentials.

Compensation and Benefits

All new and existing employees will participate in STRS, PERS, and/or Federal Social Security retirement programs, as appropriate. The district makes all employer contributions as required by STRS, PERS, and Federal Social Security. The district also makes contributions for workers compensation insurance, unemployment insurance, and any other payroll obligations of an employer. As per conditions put forth in California regulations, all certificated employees participate in the State Teacher Retirement System (STRS). All other district employees participate in the Public Employees Retirement System (PERS) and/or Federal Social Security. To ensure and monitor such participation the district maintains a Human Resources Department within which there is an assigned Administrator, Payroll/Employee Services.

Employee Representations

The district shall be deemed the exclusive public school employer of the employees of the district for the purposes of the Education Employment Relations Act.

Rights of School District Employees

The district acknowledges that no employee can be forced to work for the charter school district; however, since this is the fifteenth year of the Kingsburg Elementary Charter School District, it can be stipulated that all current employees have agreed to work under the charter. The charter will continue to pertain to all district staff for the duration of the charter's term. The all-district charter's term will be for five (5) years, unless voluntarily surrendered by the district's Board of Trustees or revoked by action of the State Board of Education and State Superintendent of Public Instruction prior to its expiration. All new employees are informed, before hiring, of the charter status of the district. Once a new employee signs a contract with the district, having been given that information, that employee is deemed to be an employee of Kingsburg Elementary Charter School District. If the charter is voluntarily surrendered or revoked, all employees will revert to their status as employees of the Kingsburg Joint Union Elementary School District.

In the event of a dispute between the district and any certificated employee, the following internal dispute resolution process shall be implemented:

- Should a dispute arise at the certificated staff level, the principal will meet with the staff member in an informal setting to discuss and resolve the dispute. The informal meeting shall take place within five working days from the day the staff member registers the complaint.
- If the two parties are unable to resolve the dispute, the aggrieved party will put his/her complaint in writing and submit it to the superintendent. The superintendent will meet with the two parties within five working days from the date he/she receives the written complaint. The superintendent will render a decision within five working days. The superintendent's decision shall be final.

There is currently a group of employees represented by CSEA identified as Local Chapter 879. There are also a large number of classified employees declining such representation. In the event of a dispute between the district and any classified employee, the following internal dispute resolution process shall be implemented:

- For those employees not represented by a bargaining unit the following procedure shall be implemented:
    - Should a dispute arise at the certificated staff level, the principal will meet with the staff member in an informal setting to discuss and resolve the dispute. The informal meeting shall take place within five working days from the day the staff member registers the complaint.
    - If the two parties are unable to resolve the dispute, the aggrieved party will put his/her complaint in writing and submit it to the superintendent. The superintendent will meet with the two parties within five working days from the date he/she receives the written complaint. The superintendent will render a decision within five working days. The superintendent's decision shall be final.
- For those represented by CSEA, the Kingsburg Elementary-CSEA bargaining unit will act in a dispute between the employee and the district as described in their contract with the district.

Health and Safety

The district will adhere to the existing state laws regarding fingerprinting, criminal background checks and drug testing of employees. Criminal background checks are required for all employees (credentialed and non-credentialed). All employees will be required to submit a valid negative test for tuberculosis (TB). This will be compliance with Education Code 49406 with periodic testing (every two years) after the initial tuberculosis test (TB).

The district complies with all regulations pertaining to scoliosis, vision, and hearing screening for all students in accordance with 5CCR 11967.5(f)(6)(D). The governing authority shall not unconditionally admit any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized. The following are the diseases for which immunizations shall be documented with proof as is regulated by regulations: (1) Diphtheria, (2) Haemophilus influenzae type b, (3) Measles, (4) Mumps, (5) Pertussis

(whooping cough), (6) Poliomyelitis, (7) Rubella, (8) Tetanus, (9) Hepatitis B, (10) Varicella (chickenpox), (11) Any other disease deemed appropriate by the department, taking into consideration the recommendations of the Advisory Committee on Immunization Practices of the United States Department of Health and Human Services, the American Academy of Pediatrics, and the American Academy of Family Physicians in accordance with Health and Safety Codes 120325 and 12035 and in accordance with 5CCR 11967.5(f)(6)(C). The district will adhere to existing board policy pertaining to the safety and health of all employees and students.

The district will maintain policies and procedures conducive to school safety; responses to natural disasters and emergencies; and blood-borne pathogens, as well as appropriate policies related to student behavior and the administration of prescription drugs and other medicines. District nurses and nurse assistants are available to meet the needs in regards to the health and safety of both students and staff.

The district will maintain policies as a drug, alcohol, and tobacco-free workplace.

All information related to the aforementioned policies will be included in parent/student or employee handbooks and will be reviewed on an ongoing basis, as determined by the district and/or the Board of Trustees policies.

The district has a district-wide safety plan entitled, Emergency Operations Plan, which is updated annually.

The facilities will receive an annual inspection by the county fire marshal and a property and liability loss control specialist to assure compliance with established health and safety standards (including Federal ADA). The Food Services facility will be inspected by the county health department.

The district will meet all federal, state, and local requirements for water, friable asbestos, and other toxic materials.

The district will maintain liability and excess liability, as provided by the Organization of Self-Insured Schools, JPA, and Schools Excess Liability. Workers compensation will be provided pursuant to provision of the California Labor Code.

Dispute Resolution

The procedures to be followed by the charter district and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), include at a minimum that:

(A) Kingsburg Elementary Charter School District acknowledges that the State Board of Education and Superintendent of Public Instruction are not local education agencies.

(B) Because the State Board of Education and Superintendent of Public Instruction are not local education agencies, they may choose to resolve a dispute directly instead of pursuing the dispute resolution process. If the State Board of Education and Superintendent of Public Instruction intend to resolve a dispute directly instead of pursuing the dispute resolution process, the district must first hold a public hearing to consider arguments for and against the direct resolution of the dispute.

(C) If the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the State Board of Education's and Superintendent of Public Instruction's discretion in accordance with that provision of law and any regulations pertaining thereto.

(D) The costs of the dispute resolution process, if needed, will be shared by the district and the State Board of Education.

Kingsburg Elementary Charter School District agrees to work to accomplish all tasks necessary to fully implement this charter. If the State Board of Education and Superintendent of Public Instruction believe they have cause to revoke this charter, they agree to notify the Board of Trustees of the district and grant the district reasonable time to respond to the notice and take appropriate corrective action prior to the revocation of the charter petition. If such an action takes place, Kingsburg Elementary Charter School District will revert back to Kingsburg Elementary Joint Union District.

VI. STUDENT ADMISSIONS, ATTENDANCE, AND SUSPENSION/EXPULSION POLICIES

Kingsburg Elementary Charter School District

Student Admission Policies and Procedures

The existing grade-level configuration of the district ensures a racial and ethnic balance that is reflective of the general population residing within the territorial jurisdiction of the district. The schools that comprise the district are philosophically and practically treated as one school on different sites. The schools, and the grade levels they serve, are as follows:

- Washington School ……....Pre-school, Transitional Kindergarten, Kindergarten
- Roosevelt School ……...Grade 1
- Lincoln School ……..Grades 2-3
- Ronald Reagan School …….…..Grades 4-6
- Rafer Johnson Junior High …….Grades 7-8
- Island Community Day School ……..Grades K-8
- Kingsburg Community Charter Extension ….....K-8

Admission to the district is open to all students within the boundaries of the district (and, for Kingsburg Community Charter Extension, students who reside in a district of any county contiguous to the boundaries of the district) per policy for inter-district enrollment as adopted by the Board of Trustees. If the number of students who wish to attend a school within the district exceeds the school's capacity, enrollment, except for existing pupils of the district, is determined by a public random drawing.

The requirements for admission shall be:

1. Student has satisfied all state required immunizations
2. Parent and student sign a compact indicating they will adhere to the elements of the charter agreement
3. Student has not previously been expelled from his/her former school and/or district for violations pertaining to health and safety codes

Out-of-district attendance requests shall be subject to review by the superintendent/designee regarding expulsion/suspension.

Non-Discrimination

The Kingsburg Elementary Charter School District is nonsectarian in its programs, admission policies, employment practices, and all other operations. The district shall not charge tuition and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability.

Public School Attendance Alternatives

No student residing within the district shall be required to attend schools of Kingsburg Elementary Charter School District. The district will ensure that a non-charter public school enrollment option is made available for any student residing in the Kingsburg Elementary Charter School District whose parents elect not to have the student attend a charter school. The option need only be for enrollment in any non-charter public school, not necessarily a specific non-charter public school that the parents may request, pursuant to Education Code Section 46600. (Attachments E & F)

Suspension/Expulsion Procedures

The district will maintain student discipline policies. These policies will be printed and distributed as part of the Parent/Student Handbook and will describe the expectations of the district for attendance, mutual respect, substance abuse, violence, safety, and work habits. Each parent and student will be required to verify, by signature, that they have reviewed and understand the policies.

The procedures by which pupils can be suspended or expelled. California Education Code Section 47605(b)(5)(J):

The procedures for suspension and expulsion of Kingsburg Elementary Charter School District's students will comply as closely as feasible with the procedures identified in the California Education Code. The policies and procedures for suspension and expulsion will be periodically reviewed and the list of offenses for which students are subject to suspension and expulsion will be modified as necessary. The School District will provide notification of

any expulsions. The School District will account for suspended or expelled students in its average daily attendance accounting as provided by law.

In addition, Kingsburg Elementary Charter School District will comply with all federal laws regarding student discipline for children with disabilities and will stay apprised of any developments in the IDEA legislation. If a student with disabilities has an Individual Education Program (IEP) that includes disciplinary guidelines, the student will be disciplined according to these guidelines. Students whose IEP does not include specific disciplinary guidelines may be disciplined in accordance with the standard district policies listed below.

The following are grounds for suspension and expulsion:

- Physical Injury: Caused, attempted to cause, or threatened to cause physical injury to another person (Ed. Code 48900(a)(1)) or Willfully used force or violence upon the person of another, except in self-defense. (Ed. Code 48900(a)(2)) Notification to police required for students in grades K-12.
- Weapons, Explosives, Dangerous Objects: Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal. (Ed. Code 48900(b)) Notification to police required for students in grades K-12.
- Controlled Substances/Alcohol: Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind. (Ed. Code 48900(c)) Notification to police required for students in grades K-12.
- Substances in Lieu of Controlled Substances: Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant. (Ed. Code 48900(d)) Notification to police required for students in grades K-12.
- Robbery or Extortion: Committed or attempted to commit robbery or extortion. (Ed. Code 48900(e)) Notification to police required for students in grades K-12.
- Damage to Property: Caused or attempted to cause damage to school property or private property. (Ed. Code 48900(f)) Notification to police required for students in grades K-12.
- Theft of Property: Stole or attempted to steal school property or private property. (Ed. Code 48900(g)) Notification to police required for students in grades 4-12.
- Tobacco: Possessed or used tobacco, or any product containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products. (Ed. Code 48900(h))
- Obscenity/Profanity: Committed an obscene act or engaged in habitual profanity or vulgarity. (Ed. Code 48900(i))
- Drug Paraphernalia: Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code. (Ed. Code 48900(j)) Notification to police required for students in grades K-12.
- Disruption/Defiance: Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, or other school personnel engaged in the performance of their duties. (Ed. Code 48900(k)) Notification to police required for students in grades K-12.
- Received Stolen Property: Knowingly received stolen school property or private property. (Ed. Code 48900(l)) Notification to police required for students in grades 4-12.

- Imitation Firearm: Possessed an imitation firearm. (Ed. Code 48900(m)) Notification to police required for students in grades 4-12. (The definition of "Imitation Firearm" is a replica of a firearm that is so substantially similar in physical properties to an existing firearm to lead a reasonable person to conclude that the replica is a firearm. (Ed. Code 48900(m)).
- Sexual Assault/Sexual Battery: Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code. (Ed. Code 48900(n)) Notification to police required for students in grades 4-12. (The definition of sexual assault includes rape, various types of sexual abuse, and lewd and lascivious conduct. (Penal Code 261, 266c, 286, 288, 288a, 289.) The definition of sexual battery is the touching of an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse. (Penal Code 243.4)).
- Harassment of Witness: Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both. (Ed. Code 48900(o))
- Sexual Harassment: Committed sexual harassment. (Ed. Code 48900.2) (The definition of sexual harassment is an act which, upon review of a reasonable person of the same gender as the victim, is determined to be sufficiently severe or pervasive so as to cause negative impact on one's academic performance or to create an intimidating, hostile or offensive educational environment. Notification to police required for students in grades 4-12. The limitations are that the sexual harassment must be unwelcomed by the recipient in order to constitute a violation of Education Code 48900.2, and only students in grades 4-12 are subject to suspension for sexual harassment.
- Hate Violence: Caused, attempted to cause, threatened to cause, or participated in an act of hate violence. (Ed .Code 48900.3) Notification to police required for students in grades K-12. (The definition of hate violence is the use of force or threat of force to intimidate a person in the exercise of a constitutional or statutory right, or damage or destruction of property for the purpose of intimidating or interfering with a person because of that individual's "race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.")
- Intentional Harassment: Created a hostile educational environment (Ed. Code 48900.4) (The definition of intentional harassment is the engaging in harassment, threats or intimidation, directed against a student or group of students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting a classroom, creating substantial disorder, and invading the rights of the students or group of students by creating an intimidating or hostile educational environment).
- Terrorist Threats Against School Officials and/or Property: Committed a terrorist threat against school officials, school property or both (Ed. Code 48900.7) (The definition of a terrorist threat includes any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in: death; great bodily injury to another person, or property damage in excess of one thousand dollars ($1,000.00), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for: his or her own safety, his or her immediate family's safety, the protection of school property, and/or the personal property of the person threatened or of his or her immediate family.
- Electronic Signaling Device: Possessed electronic signaling device, including cell phones and pagers while on school grounds while attending school sponsored activities or while under the supervision and control of school employees (Ed. Code 48901.5)
- Hazing: Engaged in hazing activities or any act that causes or is likely to cause personal humiliation or disgrace (Ed. Code 32050-32052)

- Vandalism/Malicious Mischief: Defaced, damaged or destroyed any school property including, books, supplies of all kinds, equipment, buildings and grounds. Note: Parents can be held financially liable for damages up to $10,000 and shall also be liable for the amount of any reward not exceeding $10,000 pursuant to Section 53069.5 of the Government Code (Ed. Code 48904).

The following are the procedures in cases where suspension may result:

Step One: The school site administrator/designee investigates the incident and determines whether or not it merits suspension. Searches: In order to investigate an incident, or where there is reasonable suspicion, a student's attire, personal property, vehicle or school property, including books, desks, and school lockers, may be searched by a principal/principal designee who has reasonable suspicion that a student possesses illegal items or illegally obtained items. These may include illegal substances, drug paraphernalia, weapons or other objects or substances that may be injurious to the student or others. Illegally possessed items shall be confiscated and turned over to the police.

Step Two: The school site administrator/designee determines the appropriate length of the suspension (up to five school days). Note: A teacher may suspend a student only from his classroom for the day of the suspension plus the following school day.

Step Three: Unless a student poses a danger to the life, safety, or health of students or school personnel, a suspension will be preceded by an informal conference between the principal/principal designee and student, in which the student shall be informed of the reason for the suspension, the evidence against him, and be given the opportunity to present his defense. At the time of suspension, a school employee will make a reasonable effort to contact the student's parents in person or by telephone. In the event that a teacher suspends a student, the teacher shall ask the parent to attend a parent-teacher conference regarding the suspension as soon as possible.

Step Four: School site administrator/designee fills out a Notice of Suspension Form. The parent will be given written notice of the suspension using this form.

Step Five: School site administrator/designee determines whether the offense warrants a police report. State law requires Kingsburg Elementary Charter School District to report certain offenses to law enforcement authorities (Ed. Code 48902). If so, the police are called as soon as possible. In addition to the offenses listed under "Grounds for Suspension and Expulsion" that require a police report, school personnel are required, by law, to file a report to the police or a legal agency as follows:

- Prior to suspending a student from school for an assault upon any person with a deadly weapon or by force likely to produce great bodily injury. (Ed. Code 48902)
- A non-accidentally inflicted physical injury upon a minor student by another student which requires medical attention beyond the level of school-applied first aid. (Penal Code 11166)
- A non-accidentally inflicted physical injury by any person upon any minor which requires any medical attention. A report must be made to police or a child protection agency. (Penal Code 11166)
- Actual or suspected sexual abuse or physical abuse of any minor child. A report must be made to a child protection agency. (Penal Code 11166)
- An attack or assault on, or the menacing of, any school employee by a student. (Ed. Code 44014)
- A directly communicated threat by a student or any person to inflict unlawful injury upon the person or property of a school employee to keep the employee from fulfilling any official duty or for having fulfilled any official duty.
- Possession of any controlled substance, drug paraphernalia, alcoholic beverages or intoxicants, including glue containing toluene. Possession of such materials is illegal, and upon confiscation, cannot be retained by school personnel. (Ed. Code 48900(c))
- Acts of school misconduct in violation of court imposed conditions on probation. (Ed. Code 48267)
- Truancy of any student under court ordered mandatory attendance.

Step Six: The school site administrator/designee informs teachers of each student who has engaged in, or been suspected to have been engaged in, any misconduct for which the student can be suspended other than for use and possession of tobacco products. The information must be maintained in confidence and transmitted to teachers and supervisory personnel in confidence for a period of three years after receiving such notification or from the time the student returns to the school (Ed. Code 49079).

Step Seven: The school administrator/designee may require the student and his parent(s) or guardian(s) to sign a contract that states the conditions the student is expected to meet while at the school. Copies of the signed contract are kept by the school site, the student, and parent(s) or guardian(s).

Appeals Process: A student or the student's parents/guardians may appeal those disciplinary actions, other than expulsion, imposed upon a student for his school related offenses. Appeals must be made first in writing at the school level, and should be directed to the principal/principal designee. The principal or principal's designee will attempt to resolve the appeal with a written response within ten (10) school days. After appeal at the school level, if further appeal is desired, the appeal should be made to the Kingsburg Elementary Charter School District and should be directed to the Assistant Superintendent for resolution with a written response within fifteen (15) school days. After appeal at the District level, if further review is desired, the appeal may be forwarded to the Kingsburg Elementary Charter School District's Board of Trustees for resolution with a written response within 20 school days. If any appeal is denied, the parent may place a written rebuttal to the action in the student's file.

The following are the procedures in cases regarding expulsion:

Definition: Expulsion is the involuntary removal of a student from all schools and programs of Kingsburg Elementary Charter School District for an extended period of time for acts of specified misconduct. Except for single acts of a grave nature, expulsion is used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to other students. Final action is only taken by vote of the Kingsburg Elementary Charter School District's Board of Trustees.

In the event that a student is recommended for expulsion from Kingsburg Elementary Charter School District, he is entitled to a hearing and, among other things, advance written notice of the rights and responsibilities enumerated in Education Code section 48918. Written notice of these due process rights shall be provided at least 10 days in advance of the date set for the hearing. (Ed. Code 48918).

Expulsion proceedings for a currently identified Special Education student require additional due process procedures. Kingsburg Elementary Charter School District will follow all due process procedures for Special Education students included in this document and in the Education Code.

The Kingsburg Elementary Charter School District Board of Trustees, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent(s) or guardian(s) in his child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the Kingsburg Elementary Charter School District Board of Trustees' determination as to whether the pupil has satisfactorily completed the rehabilitation program. (Ed. Code 48917)

Expellable Offenses include:

Category I – Mandatory Expulsion: Under the mandatory provisions of Education Code 48915(c), a student who has committed one or more of the following acts must be recommended for expulsion and the Kingsburg Elementary Charter School District Board of Trustees must expel the student.

- Possessing, selling or otherwise furnishing a firearm when an APS employee verified firearm possession,
- Brandishing a knife at another person,
- Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, or

- Committing or attempting to commit a sexual assault or committing sexual battery

Category II – Mandatory Recommendation for Expulsion: Under the Under the mandatory provision of Education Code 48915(a), a student who has committed one of the following acts of misconduct must be recommended for expulsion unless particular circumstances render it inappropriate.

- Causing serious physical injury to another person, except in self-defense;
- Possession of any knife, explosive, or other dangerous object of no reasonable use to the student;
- Unlawful possession of any controlled substance listed in Chapter 2 (Commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis;
- Robbery or extortion;
- Assault or battery upon a school employee.

Category III – Expulsion May Be Recommended: In accordance with Education Code 48915 and by direction of the California Board of Education, a student may be considered for expulsion for committing any act not listed in Category I or II and enumerated in Education Code sections 48900, 48900.2, 48900.3, 48900.4, or 48900.7.

Note: The Kingsburg Elementary Charter School District Board of Trustees' decision to expel a student for violations included in Categories II and III must be based on a finding of one or both of the following:

1. Other means of correction are not feasible or have repeatedly failed to bring about the proper conduct.
2. Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others. (Ed. Code 48915(b) and 48915(e).)

Note: If the Administrative Review Panel chooses not to recommend the expulsion of the student, Kingsburg Elementary Charter School District administration may, at its discretion, impose a lesser form of disciplinary action which may include assigning the student to another school or program. Such transferred students will not be permitted to re-enroll in their former school of assignment. (Ed. Code 48918(e))

Procedures in Cases Requiring the Extension of Suspension and/or Expulsion:

Step One: School site administrator/designee investigates an incident and determines whether the offense results in a suspension. If so, the administrator/administrator designee follows the procedures to suspend the student outlined above.

Step Two: A meeting is held within five school days of the student's suspension to extend the suspension. The student and his/her parent(s) or guardian(s) are invited to attend this meeting with the Assistant Superintendent/designee. School site administrators and/ or teachers may also be present. At this meeting the offense and repercussions are discussed. An extension of the suspension may be granted only if the Assistant Superintendent/designee has determined that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the student has committed an offense that requires a mandatory expulsion recommendation, this is discussed and understood by all parties.

Step Three: A letter from Kingsburg Elementary Charter School District is sent to the student and parent(s) or guardian(s) regarding the expulsion hearing. This letter notifies the student and parent(s) or guardian(s) when and where the expulsion hearing will take place and the rights of the student with respect to the hearing as provided under Ed. Code 48918. The expulsion hearing must occur within thirty days of the offense, unless the student and parent(s) or guardian(s) request a postponement.

Step Four: The school site administrator/designee files papers that are available for review by the student and parent(s) or guardian(s). These papers may include, but are not limited to, the following: A record of student attendance and grades; a record of previous infractions; a statement of the facts surrounding the case made by a site administrator/designee; a statement of the facts surrounding the case made by witness(es).

Step Five: The student and his advocate prepare their presentation to the expulsion hearing board and, if necessary, subpoena witnesses. The student's advocate is any person (attorney, or non-attorney) of the student's choice who is willing and able to represent the student at the expulsion hearing.

Step Six: An expulsion hearing is held. The hearing will follow the procedures identified in Ed. Code 48918. This hearing cannot be held within less than ten days from when the letter in Step Three is mailed in order to give the student and his advocate time to prepare for the hearing unless the student and family/guardian waive their rights to ten days' notice. The Kingsburg Elementary Charter School District Superintendent will appoint an Administrative Review Panel consisting of three or more certificated persons, none of whom is a member of the Kingsburg Elementary Charter School District Board of Trustees or employed on the staff of the school in which the pupil is enrolled, to hear the case. A record of the hearing will be made and, if necessary, a translator will be present at the expulsion hearing.

Step Seven: Within three school days after the hearing, the Administrative Review Panel shall determine whether to recommend the expulsion of the pupil to the Kingsburg Elementary Charter School District Board of Trustees. If the Administrative Review Panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. The decision not to recommend expulsion shall be final.

Step Eight: If the Administrative Review Panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the Kingsburg Elementary Charter School District Board of Trustees. All findings of fact and recommendations shall be based solely on the evidence presented in the hearing.

Step Nine: The Kingsburg Elementary Charter School District Board of Trustees meets and decides whether or not to approve the Administrative Review Panel's recommendations. If the Kingsburg Elementary Charter School District Board of Trustees accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the Administrative Review Panel or upon the results of any supplementary hearing conducted pursuant to Ed. Code 48918 that the Kingsburg Elementary Charter School District Board of Trustees may order. The decision of the Kingsburg Elementary Charter School District Board of Trustees to expel a pupil shall be based upon substantial evidence relevant to the charges presented at the expulsion hearing or hearings. An alternative school placement for the student will be arranged if the student is expelled for any length of time.

Step Ten: The Administrative Review Panel, or Kingsburg Elementary Charter School District Board of Trustees may require the student and his parent(s) or guardian(s) to sign a contract that states the conditions that the student must meet in order to remain or be re-admitted to the school. Copies of the signed contract are kept by the school site, the student and parent(s) or guardian(s) and the Kingsburg Elementary Charter School District's District Office. The student's compliance with the contract is reviewed periodically by a school administrator/designee.

Steps to Appeal: All decisions to expel are final, but may be appealed to the Fresno County Office of Education's Board of Education. The appeal process is enumerated in Education Code Section 48919 and a statement of rights is given in writing to parent(s) or guardian(s) for students that have been expelled.

VII. FINANCIAL PLANNING, REPORTING AND ACCOUNTABILITY

Budget

The district's superintendent, the business manager, and the principals/directors annually develop a balanced operating budget to be approved by the Board of Trustees as a part of the annual budgetary process. The district's independent auditor annually conducts audits of the fiscal operation. To the extent required under applicable federal law, the audit scope will be expanded to include items and processes specified in any applicable Office Management and Budget Circulars. The district will comply with Fresno County Office of Education audit and accountability practices, though it will retain its rights under the parameters of Charter School law. Any disputes regarding the resolution of audit exceptions and/or deficiencies will be referred to the dispute resolution process contained in step V.

Kingsburg Elementary Charter School District

Financial Reporting

The accounting of the district's budgets, revenues, and expenditures are conducted in accordance to the district's Board of Trustees' Policies and Administrative Regulations. The district contracts an independent auditing firm to conduct the annual audit of fiscal and programmatic operations and report finding to the Board of Trustees. The district complies with state financial reporting regulations by submitting the 1st and 2nd interim report, unaudited actuals, end of year projection, and budget report. These reports are submitted to CDE through the county office of education which monitors the fiscal health of the district in accordance with applicable provisions of state law, generally referred to as Assembly Bill 1200 (Chapter 1213, Statutes of 1991).

Insurance

The district purchases general liability insurance, workers compensation insurance, and other necessary coverage through carriers approved by the district's Board of Trustees.

Administrative Services

The district is governed by the district's Board of Trustees. The superintendent and business manager are responsible for managing the district under policies and regulations adopted by the Board of Trustees. Services that are administered include but are not limited to: financial, management, personnel services, payroll, maintenance/operations, transportation, food services, special education, and curriculum and instruction.

Facilities

Kingsburg Elementary Charter School District consists of 7 school sites all within the town of Kingsburg:

Washington School
1501 Ellis Street

Roosevelt School
1185 10th Street

Lincoln School & Operations/Maintenance Building
1900 E. Mariposa Street

Ronald Reagan School
1180 Diane Avenue

Rafer Johnson Junior High & District Office
1310 Stroud Ave.

Island Community Day School
1778 6th Ave. Dr.

Kingsburg Community Charter Extension School
1776 6th Ave. Dr.

As the community of Kingsburg continues to grow, the enrollment of the school district will grow also. This charter petition will allow the district to expand its facilities through land purchases and/or building projects to meet the expansion needs, both present and future, of the Kingsburg Elementary Charter School District.

Transportation

Kingsburg Elementary Charter School District provides home-to-school transportation for those students who reside within the district's geographic boundaries. The district transportation system functions under the guidelines of the California Department of Education's Office of School Transportation. Students who reside outside the district are responsible for transportation to and from school.

Audits

Kingsburg Elementary Charter School District will adhere to the Board of Trustees' Policies and Administrative Regulations, and participate in the board's annual audit of fiscal and program operations.

The Board of Trustees oversees the selection of an independent auditor. The qualifications for an auditor are described in a request for proposal. The scope of the audit is as follows:

- Verifies the accuracy of the district's financial statements, attendance, and enrollment accounting practices, and reviews the district's internal controls.

- The audit is conducted in accordance with generally accepted accounting principals, the standards established by the Government Accounting Standards Board (GASB), and applicable provisions of the current edition of Standards and Procedures for Audits of California K-12 Local Educational Agencies (issued annually).
- As required under applicable federal law, the audit scope is expanded to include items and processes specified in any applicable office of Management and Budget Circulars.
- Completion of the audit should be within six months of the close of the fiscal year and before December 15th.
- Copies of the audit are to be given to the district business manager and are presented to the Board of Trustees at a regularly scheduled board meeting, following which copies are duly filed with state and local agencies as required by law.
- Audit exceptions or deficiencies are reported to the Board of Trustees with recommendations on resolving the exceptions.
- It is the responsibility of the district to resolve exceptions or deficiencies.

Closure Protocol

Kingsburg Joint Union Elementary School District has been a public school since 1874. If the charter becomes inoperative, the district reverts to non-charter status. Notice of the change in status will be provided to all interested and concerned parties, including but not limited to, students and their families, employees, the Fresno County Office of Education, and the State Board of Education and State Superintendent of Public Instruction (through the California Department of Education). Student records will continue to be maintained on site as usual.

School Management Contracts

Kingsburg Elementary Charter School District does not contract out for business services. All business office personnel are district employees.

VIII. IMPACT ON THE CHARTER AUTHORIZER

As of June 30, 2011, the Kingsburg Elementary Charter School District will have operated as an all-charter district for 3 consecutive five-year periods. During that period, the district does not believe its charter status per se has resulted in any major workload to the charter authorizer (i.e., the State Superintendent of Public Instruction and State Board of Education, served by the staff of the California Department of Education). The district foresees no increase in the authorizer's workload if the charter is renewed for a fourth five-year period (i.e., to June 30, 2016).

A key way in which the district assists the authorizer is an annual self-review and evaluation conducted under the auspices of the Board of Trustees. This process includes, but is not limited to, the following areas:

- Program content
- Student progress
- Management
- Budget
- Future plans

With the approval of the Board of Trustees, State Superintendent of Public Instruction, and State Board of Education, the charter will be renewed for a five-year period, from July 1, 2011, to June 30, 2016. The charter will be consistently operative during that time unless terminated by the Board of Trustees or revoked by the State Superintendent of Public Instruction and the State Board of Education.

If changes to the approved charter are contemplated, the district will confer with the California Department of Education (as the representative of the charter authorizer) to determine if the proposed changes constitute material revisions. If the changes are material revisions, they must first be approved by a majority of the district's teachers and by the Board of Trustees. Upon such approval they must be submitted for approval by the State Superintendent of Public Instruction and the State Board of Education.

IX. ATTACHMENTS

Attachment A: Core Curriculum

Attachment B: Academic Performance Index Reports

Attachment C: District's Organizational Chart

Attachment D: Parent/Student/District Compact

Attachment E: Memorandum of Understanding – Clay Elementary School District

Attachment F: Memorandum of Understanding – Selma Unified School District

Attachment G: Financial Condition Certification Letter

Attachment H: Assurances

Attachment I: Measurable Student Outcomes from 2006-2011 Charter

Attachment J: Status Disaggregated Comparison

Attachment A

Core Curriculum

Grade	Reading/Language Arts	Mathematics	Science	Social Science
Kindergarten	Houghton Mifflin *A Legacy of Literature*	Harcourt *Mathematics*	Harcourt Science Components	Harcourt Social Science Components
1st Grade	Houghton Mifflin *A Legacy of Literature*	Harcourt *Mathematics*	Harcourt Science & AIMS	Harcourt *Social Studies*
2nd Grade	Houghton Mifflin *A Legacy of Literature*	Harcourt *Mathematics*	Harcourt *Science*	Harcourt *Social Studies*
3rd Grade	Houghton Mifflin *A Legacy of Literature*	Harcourt *Mathematics*	Harcourt *Science*	Harcourt *Social Studies*
4th Grade	Houghton Mifflin *A Legacy of Literature*	Harcourt *Mathematics*	Harcourt *Discovery Works*	Harcourt *Social Studies*
5th Grade	Houghton Mifflin *A Legacy of Literature*	Harcourt *Mathematics*	Harcourt *Discovery Works*	Harcourt *America Will Be*
6th Grade	Houghton Mifflin *A Legacy of Literature*	Harcourt *Mathematics*	Harcourt *Earth Science*	Harcourt *A Message of Ancient Days*
7th Grade	Holt *Literature & Language Arts*	Holt *Pre-Algebra*	Holt Science & Technology *Life Science*	Harcourt *Across the Centuries*
8th Grade	Holt *Literature & Language Arts*	Holt *Algebra*	Holt Science & Technology *Physical Science*	Harcourt *A More Perfect Union*

Attachment B

Academic Performance Index Report

2009-10 Academic Performance Index (API) Growth Report

	API				Met Growth Target		
	2010 Growth	2009 Base	2009-10 Growth Target	2009-10 Growth	School-wide	All Subgroups	Both Schoolwide and Subgroups
KINGSBURG ELEMENTARY CHARTER	816	792	D	24			
Elementary Schools							
Kingsburg Community Charter Extension	744	692	5	52	Yes	Yes	Yes
Lincoln Elementary	825	820	A	5	Yes	Yes	Yes
Ronald W. Reagan Elementary	840	799	1	41	Yes	Yes	Yes
Roosevelt Elementary							
Washington Elementary							
Middle Schools							
Rafer Johnson Junior High	800	792	5	8	Yes	Yes	Yes
ASAM Schools							
Island Community Day							

2008-09 Academic Performance Index (API) Growth Report

	API				Met Growth Target		
	2009 Growth	2008 Base	2008-09 Growth Target	2008-09 Growth	School-wide	All Subgroups	Both Schoolwide and Subgroups
KINGSBURG ELEMENTARY CHARTER	792	775	D	17			
Elementary Schools							
Kingsburg Community Charter Extension	692	683	6	9	Yes	No	No
Lincoln Elementary	820	793	5	27	Yes	Yes	Yes
Ronald W. Reagan Elementary	799	795	5	4	No	No	No
Roosevelt Elementary							
Washington Elementary							
Middle Schools							
Rafer Johnson Junior High	794	763	5	31	Yes	Yes	Yes

Kingsburg Elementary Charter School District

ASAM Schools
Island Community Day

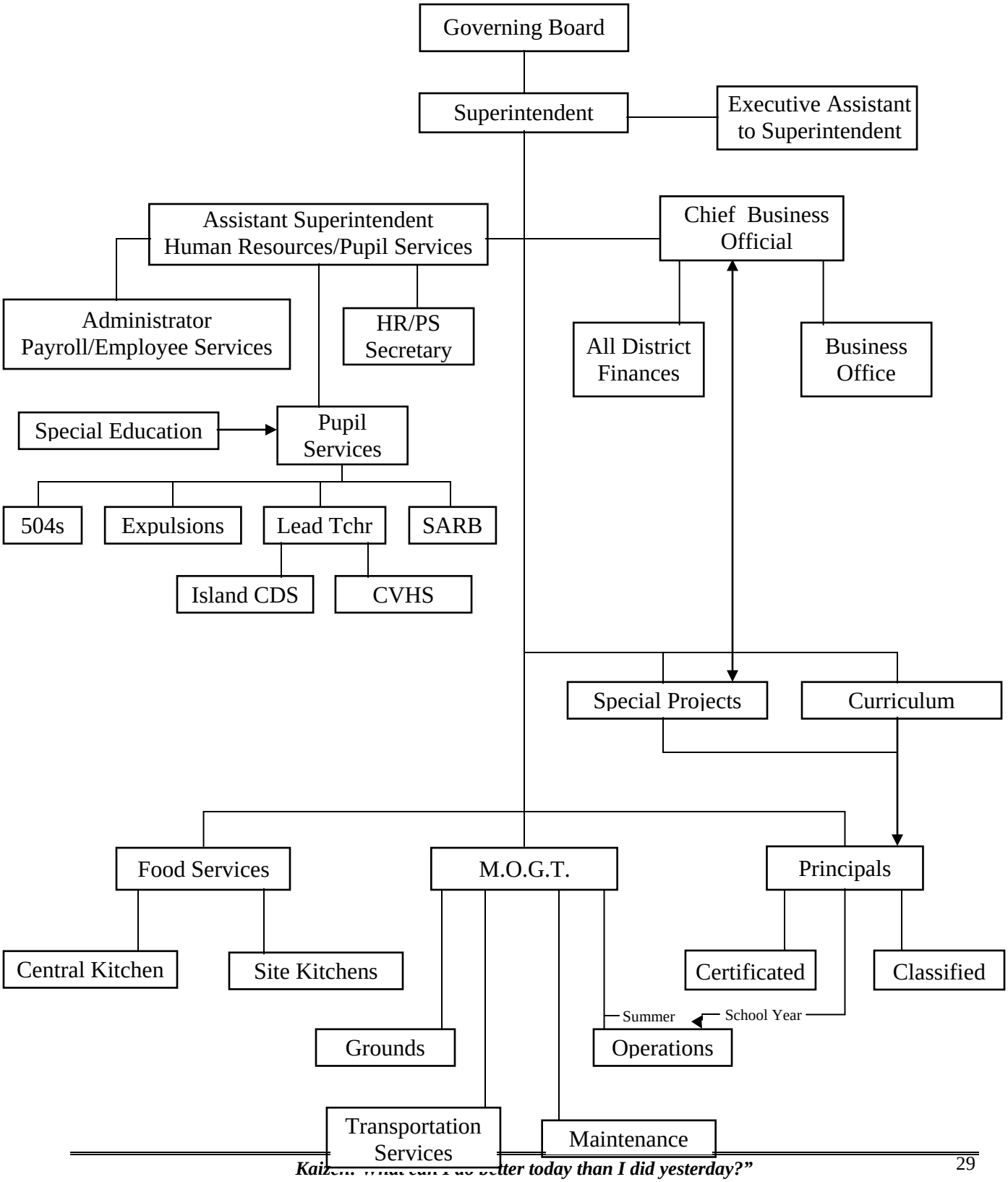
2007-08 Academic Performance Index (API) Growth Report

	API				Met Growth Target		
	2008 Growth	2007 Base	2007-08 Growth Target	2007-08 Growth	School-wide	All Subgroups	Both Schoolwide and Subgroups
KINGSBURG ELEMENTARY CHARTER	777	773	D	4			
Elementary Schools							
Kingsburg Community Charter Extension	690	745	5	-55	No	No	No
Lincoln Elementary	786	789	5	-3	No	No	No
Ronald W. Reagan Elementary	803	B	B	B			N/A
Roosevelt Elementary							
Washington Elementary							
Middle Schools							
Rafer Johnson Junior High	766	761	5	5	Yes	No	No
ASAM Schools							
Island Community Day							

" B " means the school did not have a valid 2007 Base API and will not have any growth or target information. This was Ronald W. Reagan Elementary's first year of school – a new school facility that was finished and opened this school year.

Attachment C

Organizational Chart



Attachment D

PARENT/STUDENT/CHARTER DISTRICT COMPACT

The purpose of this compact is to promote responsibility and respect in the students of the Kingsburg Elementary Charter School District.

CHARTER DISTRICT

1. Recognizes the right of parents to participate in decisions affecting their children and agrees to:
   a. provide periodic reports on student progress
   b. consult with parents regarding changes in the behavior and/or academic performance of the student
   c. respond in a timely manner to parent calls and/or requests for conferences
2. Accepts its obligation to provide a quality education for all students by:
   a. responding to the specific needs of students and their families
   b. utilizing an effective curriculum that will prepare students for the future
   c. providing competent personnel who display a nurturing and caring attitude toward children
   d. maintaining safe and secure school facilities
3. Welcomes parents as partners in the educational process of their children by:
   a. allowing parents to participate in various decision-making activities regarding school policy
   b. encouraging parent participation in school activities
   c. providing a wide variety of opportunities for parents to volunteer

PARENTS

1. Recognize that supervising a student is the joint responsibility of the parent and school and will:
   a. provide a time and a place for the completion of the homework assigned to the student
   b. reinforce the conduct and dress codes of the school
   c. ensure regular attendance at school, observing opening and closing times of the instructional day
2. Accept the responsibility of prompt and professional communication with the classroom teacher:
   a. regarding concerns about student performance, instruction, or other issues
   b. concerning matters that may affect the performance and/or behavior of the student at school
3. Agree to participate, whenever possible, in the school community by:
   a. attending a variety of school events
   b. volunteering service to the school through the many opportunities that will be provided

STUDENT

1. Recognizes that he/she is ultimately responsible for his/her learning and will:
   a. attend school regularly, observing the opening and closing times of the instructional day
   b. diligently pursue his/her studies at school and home, completing all work to his/her best level
2. Accepts the responsibility of maintaining a high level of conduct at all times by:
   a. demonstrating respect toward school employees, other adults on campus, his/her parents, fellow students, and the community
   b. showing respect for school property and the property of others
   c. following all school rules, including the district dress and conduct codes
3. Agrees to make a positive contribution to the school and community by:
   a. setting an example for others to follow
   b. volunteering service to the school through the many opportunities that will be provided

Parents and students may withdraw from this compact, at any time, and arrange for attendance alternatives that may include an alternative District program or attendance in another school district. Should the student represented in this compact consistently fail to support the development of responsibility and respect in the students of the Charter District, the District reserves the right to dismiss the student from the District through the expulsion process. Prior to dismissal, the following due process steps will be observed:

1. The student and his/her parents will be notified, in writing, of the reason(s) the District is recommending expulsion.

2. A hearing will be held before an Administrative Review Committee (composed of impartial individuals), at which both the school and the parents will have an opportunity to present facts and evidence supporting or opposing the district's recommendation. The Administrative Review Committee will make a recommendation to the Board of Trustees. The Board of Trustees will make the final decision following consideration of the Administrative Review Committee's recommendation and supporting evidence as well as any additional facts and arguments that may be presented.
3. The parent may ask for reconsideration of the Administrative Review Committee's recommendation to the Board of Trustees. The reconsideration request must be filed with the Superintendent within ten (10) days after receipt of the recommendation from the Administrative Review Committee.

We, the undersigned, agree to the terms of the compact.

Student's Signature _____ Date _____

Parent's Signature _____ Date _____

District Representative's Signature _____ Date _____

Attachment E

CLAY JOINT ELEMENTARY SCHOOL DISTRICT

Memorandum of Understanding

In the event that residents within the sphere of attendance of the Kingsburg Elementary Charter School District, who choose not to have their children attend the Kingsburg Elementary Charter School District, may enroll their children in the Clay Joint Elementary School District. The Clay Joint Elementary School District agrees to permit said children to enroll as students as long as:

1) Clay Joint Elementary School District is not impacted
2) The students are in compliance with the receiving district's inter-district transfer requirements.

Dr. Mark Ford, Superintendent
Kingsburg Elementary Charter School District

Date: 2/15/11

Bill Manlein, Superintendent
Clay Joint Elementary School District

Date: 2/15/11

Attachment F

SELMA UNIFIED SCHOOL DISTRICT

Memorandum of Understanding

In the event that residents within the sphere of attendance of the Kingsburg Elementary Charter School District, who choose not to have their children attend the Kingsburg Elementary Charter School District, may enroll their children in the Selma Unified School District. The Selma Unified School District agrees to permit said children to enroll as students as long as:

1) Selma Unified School District is not impacted
2) The students are in compliance with the receiving district's inter-district transfer requirements.

Dr. Mark Ford, Superintendent
Kingsburg Elementary Charter School District

Date: 2/15/11

Dr. Mark Sutton, Superintendent
Selma Unified School District

Date: 2/15/11

Attachment G

FINANCIAL CONDITION CERTIFICATION LETTER

fresno county
office of education

Larry L. Powell
Superintendent

January 24, 2011

Beth Hunkapiller, Director
California Department of Education
Charter Schools Division
1430 N Street
Sacramento, CA 95814

Dear Ms. Hunkapiller:

This letter is to express the Fresno County Office of Education's support for the charter renewal of the Kingsburg Elementary Charter School District (KECSD). The KECSD (Charter# D2) originally was chartered in May 1996 and subsequently received five-year renewals in 2001 and 2006.

Education Code Section 47607 states that commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever is later; a charter school's charter may not be renewed unless specific performance standards have been met.

The KECSD has met these performance standards. Only two of the schools in the KECSD are in Program Improvement, and one of those schools has made sufficient progress to enable them to exit this status next year if progress continues. The KECSD has met the statewide performance goal of 800 on its Academic Performance Index (API) scores. In addition, four out of five of the schools have also met the statewide target of 800. All of these schools' and the KECSD's significant subgroups are meeting their API growth targets each year.

In addition to achieving a high academic standard, the KECSD has enjoyed a history of strong fiscal management. The Charter has received "Positive" certifications for each of its Interim Reports since its approval in 1996. The Charter's 2010-11 First Interim Report shows a 33.46% estimated reserve for economic uncertainties in the current fiscal year and projects reserves of 21.30% and 15.54% for the two subsequent years.

Based upon the County Superintendent of Schools' review of the Charter's financial reports in accordance with State Criteria and Standards as prescribed by AB 1200 and subsequent legislation, the Kingsburg Elementary Charter School District can meet its required fiscal responsibilities.

Sincerely,

Richard A. Martin
Deputy Superintendent/CFO

Jamie D. Perry
Senior Director, District Financial Services

cc: Mr. Larry L. Powell, Superintendent, FCOE
Dr. Don Holder, Assistant Superintendent, Curriculum and Instruction, FCOE
Dr. Mark Ford, Superintendent, KECSD

Kingsburg Elementary Charter School District

1111 Van Ness Avenue • Fresno, California 93721-2000
(559)265-3000 • TDD (559) 497-3912 • Web Site: www.fcoe.kl2.ca.us • FAX: (559) 497-3900

Attachment H

ASSURANCES

This form is intended to be signed by a duly authorized representative of the applicant and submitted with the Full Application.

As the authorized representative of the applicant, I hereby certify that the information submitted in this application for a charter for Kingsburg Elementary Charter District is true to the best of my knowledge and belief. I understand that, if awarded a renewal charter, the school district:

1. Will meet all statewide standards and conduct the student assessments required, pursuant to Education Code §60605, and any other statewide standards authorized in statute, or student assessments applicable to students in non-charter public schools. *[Ref. California Education Code §47605(c)(1)]*
2. Will be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Act (Chapter 10.7 (commencing with §3540) of Division 4 of Title 4 of Title 1 of the Government Code. *[Ref. California Education Code §47605(b)(5)(O)]*
3. Will be nonsectarian in its programs, admissions policies, employment practices, and all other operations. *[Ref. California Education Code §47605(d)(1)]*
4. Will not charge tuition. *[Ref. California Education Code §47605(d)(1)]*
5. Will admit all students who wish to attend the school, and who submit a timely application, unless the school receives a greater number of applications than there are spaces for students, in which case each applicant will be given equal chance of admission through a random lottery process. *[Ref. California Education Code §47605(d)(2)(B)]*
6. Will not discriminate against any student on the basis of ethnic background, national origin, gender, or disability. *[Ref. California Education Code §47605(d)(1)]*
7. Will adhere to all provisions of federal law relating to students with disabilities, including the IDEA, Section 504 of the Rehabilitation Act of 1974, and Title II of the Americans with Disabilities Act of 1990, that are applicable to it.
8. Will meet all requirements for employment set forth in applicable provisions of law, including, but not limited to credentials, as necessary. *[Ref. Criteria for Review, §11967.5.1(f)(5)]*
9. Will ensure that teachers in the school hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools are required to hold. As allowed by statute, flexibility will be given to non-core, non-college preparatory teachers. *[Ref. California Education Code §47605(l)]*
10. Will at all times maintain all necessary and appropriate insurance coverage.
11. Will follow any and all other federal, state, and local laws and regulations that pertain to the applicant or the operation of the charter school district.

_____ _____

Mark Ford, Ph.D., Superintendent *Date*

Attachment I:

Measurable Student Outcomes from 2006-2011 Charter:

- All students will progress towards achieving the state content standards at a proficient or advanced level as measured by the California Standards Tests in Language Arts, Mathematics, Science and Social Studies at the grade levels determined by the California Department of Education

2006 – Percent of Students Above Basic – District API 784

Grade	Lang. Arts	Math	Science	Gen. Math	Alg 1	History
2	54	68				
3	38	59				
4	60	63				
5	44	59	40			
6	48	54				
7	53	60				
8	46		39	17	46	42

compared to:

2010 – Percent of Students Above Basic – District API 816

Grade	Lang. Arts	Math	Science	Gen. Math	Alg 1	History
2	63	73				
3	48	57				
4	71	81				
5	52	70	50			
6	60	62				
7	59	59				
8	58		63	16	37	48

- All students will progress towards achieving at the proficient level as measured by the regularly administered benchmark assessments as identified and used by each school site.

Percentage of students achieving at or above proficient on benchmark as aligned with CSTs:

	ELA		**Math**	
05-06	Had not converted to Data Director – no data			
	1st Benchmark	Last Benchmark	1st Benchmark	Last Benchmark
06-07	67.21	67.79	49.56	69.91
07-08	66.40	70.88	42.82	66.05
08-09	68.24	72.90	70.04	68.17
09-10	68.10	70.70	60.27	72.72

- English learners will advance at least one fluency level each year as measured by the CELDT. The results of local ELD benchmark assessments will be reported to parents of English learners at least annually as supplemental, comparative evidence of each English learner's progress toward proficiency in English.

	AMAO I	**AMAO 2**	
	Percent Met/Target Percent	**Percent Met/Target Percent**	
05-06	50.8/52.0	29.9/31.4	
06-07	50.9/48.7	33.3/27.2	
07-08	53.5/50.1	35.8/28.9	
08-09	52.6/51.6	34.6/30.6	
		< 5 years	**5+ years**
09-10	58.9/53.1	23.0/17.4	52.9/41.3

- All students will attend school daily and complete assigned daily work.

  2005-2006 District ADA 98.68%

  2006-2007 District ADA 98.72%

2007-2008 District ADA	99.15%
2008-2009 District ADA	98.62%
2009-2010 District ADA	99.36%

Attachment J:

Status Disaggregation Comparison:

District data from CALPADS

City data from **http://newsapps.pe.com/pe/census/place/kingsburg+city**

County data from **http://quickfacts.census.gov/qfd/states/06/0619.html**

	Kingsburg Elementary Charter School District	**City of Kingsburg**	**Fresno County**	**Tulare County**	**Kings County**
Am. Indian/Alskn Nat	.34%	1.2%	1.9%	1.9%	2.2%
Asian	3.07%	3.3%	9.0%	3.6%	3.4%
Black	.34%	.5%	5.8%	2.1%	8.1%
Hispanic	57.26%	42.9%	49.3%	58.3%	49.9%
Nat Hwiin/Other Pac Islnder	.04%	.1%	.2%	.2%	.3%
Missing	1.58%	--	--	--	--
Multiple	2.13%	4.2%	2.1%	1.7%	2.1%
White	35.24%	75.3%	34.6%	35.0%	36.9%

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 19

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
California College, Career, and Technical Education Center: Consider Issuing a Notice of Violation Pursuant to *Education Code* Section 47607(d).	☒ Action ☒ Information ☒ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) consider that as California College, Career, and Technical Education Center (CCCTEC) may have violated provisions of law pursuant to *Education Code (EC)* Section 47607(c)(3) and failed to engage in sound fiscal management pursuant to *EC* Section 47607(c)(4) that there are sufficient grounds to issue a Notice Violation pursuant to *Education Code (EC)* Section 47607(d).

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Background Information on SBE-authorized Charters

Since 1992, 93 charter petitions have been submitted to the CDE for consideration as SBE-authorized charter schools. Of these 93 petitions, 28 were withdrawn before consideration by the SBE. Of the remaining 65 petitions, the SBE approved 41 petitions, 7 petitions were withdrawn by the petitioners prior to formal consideration by the SBE, the SBE denied 11 petitions, the SBE did not take formal action on 2 petitions, 1 petition is scheduled to be considered at the July 2011 meeting of the SBE, and 3 petitions are scheduled to be considered at the September 2011 meeting of the SBE. The 41 petitions approved by the SBE resulted in the authorization of 29 charter schools, 3 statewide benefit charters that operate a total of 11 schools, and 9 districtwide charters, authorized jointly with the SSPI, that operate a total of 18 schools.

Of the 40 charter schools that have been authorized by the SBE since 1992, 31 charter schools are currently operating under SBE oversight, and 9 charter schools are no longer under SBE oversight due to the following reasons: 4 charter schools were locally renewed, 4 schools were abandoned, and 1 school was revoked by the SBE. The SBE has considered and approved 8 renewal petitions from SBE-authorized charter schools. As of May 3, 2011, 1 additional school was locally renewed effective July 1, 2011, which will bring the number of schools operating under SBE oversight to 30.

SUMMARY OF PREVIOUS … (Cont.)

One districtwide charter was non-renewed by the SBE, and 8 districtwide charters are currently operating under the joint authorization of the SBE and the SSPI. The 8 districtwide charters operate a total of 18 schools. The SBE has considered 17 and approved 16 renewal petitions from districtwide charters. The SBE is scheduled to consider one renewal petition from a districtwide charter at its July 2011 meeting.

At its May 7, 2010, meeting, the SBE approved a petition from CCCTEC to establish a charter school under SBE authorization.

SUMMARY OF KEY ISSUES

Background Information Re: CCCTEC

CCCTEC began operation in the 2010–11 school year. According to the charter petition, the school estimated annual enrollment of 250 and received an advance apportionment based on estimated average daily attendance of 238 (approximately 95 percent of estimated enrollment). However, in the second principal (P-2) apportionment attendance certification submitted by CCCTEC for the 2010–11 school year, CCCTEC reported actual average daily attendance of 61.66 students, a difference of 176.34 from their estimated average daily attendance. To date, the CDE has released approximately $941,762 in state and federal funding to CCCTEC during the 2010–11 fiscal year. This amount does not include revenues paid directly to the school from other sources, such as local in-lieu of property taxes paid by the sponsoring local educational agency (Washington Unified School District) and the federal Carol M. White Physical Education Program (PEP) grant paid by the United States Department of Education.

EC Section 47607(c) states that a charter may be revoked by the authority that granted the charter "if the authority finds, through a showing of substantial evidence, that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter.

(3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

(4) Violated any provision of the law."

The CDE has recently been made aware of a number of issues and allegations that, if true, and if not refuted or resolved immediately by the governing board of CCCTEC, are in violation of subdivisions (3) and (4) of *EC* Section 47607(c) and may directly impact the ability of CCCTEC to continue operations in 2011–12.

SUMMARY OF KEY ISSUES (Cont.)

In its analysis of issues, the CDE has reviewed information including, but not limited to the following items:

- Budget and cash flow statements submitted by CCCTEC in its application for a loan from the Charter Schools Revolving Loan program
- Credentials of currently employed CCCTEC teachers
- Agendas and minutes from meetings of the CCCTEC Board of Directors
- Attendance apportionment certifications and supporting documents submitted by CCCTEC
- Correspondence from current and former faculty members, vendors, the Yolo County Superintendent of Schools, and parents and guardians of CCCTEC students
- The Carol M. White PEP On-site Monitoring Report
- Information gathered during CDE site visits

Pursuant to *EC* Section 47607(d) that specifies, "prior to revocation, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to remedy the violation," the CDE recommends that the SBE consider the alleged violations and issue a Notice of Violation to CCCTEC.

The CDE recommends that the SBE provide CCCTEC with the opportunity to provide evidence that refutes, remedies, or proposes to remedy the alleged violations described in the Notice of Violation by the close of business (5 p.m. Pacific Standard Time) on Friday, July 22, 2011.

FISCAL ANALYSIS (AS APPROPRIATE)

There would essentially be no state cost related to revocation of the CCCTEC charter. If the SBE were to revoke the charter, some shifting of state expenditures would occur from CCCTEC to other local educational agencies (due to the transfer of students), but state expenditures would essentially be unchanged. There would be a minor loss of revenue to the CDE from the oversight fees collected from CCCTEC. However, the revenue loss would be offset by the reduction in costs for oversight activities.

ATTACHMENT

Attachment 1: Notice of Violation Addressed to Paul Preston, Superintendent/CEO and Member of the California College, Career, and Technical Education Center Board of Directors, and Members of the Board of Directors (4 pages)

STATE OF CALIFORNIA EDMUND G. BROWN JR., *Governor*

CALIFORNIA STATE BOARD OF EDUCATION
1430 N Street, Suite 5111
Sacramento, CA 95814
Phone: (916) 319-0827
Fax: (916) 319-0175

June 27, 2011

Paul Preston, Superintendent/CEO and Member of the California College,
Career, and Technical Education Center Board of Directors
California College, Career, and Technical Education Center
890 Embarcadero Drive
West Sacramento, CA 95691

David Kopperud and Steve McPherson, Members of the California College,
Career, and Technical Education Center Board of Directors
California College, Career, and Technical Education Center
890 Embarcadero Drive
West Sacramento, CA 95691

Subject: Notice of Violation Pursuant to *Education Code* (*EC*) Section 47607(d)

Dear Mr. Preston and Members of the CCCTEC Board of Directors:

The State Board of Education (SBE) has recently been made aware of a number of issues and allegations that, if not resolved immediately by the governing board, will directly impact the ability of the California College, Career, and Technical Education Center (CCCTEC) to continue operations in 2011–12. Specifically, the items of concern are as follows:

1. CCCTEC appears to have failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement (*EC* Section 47607[c][3]):

- The SBE has been unable to ascertain the fiscal health of the charter, as multiple budgets and cash flow statements have been submitted to the California Department of Education (CDE) Charter Schools Division (CSD) between February and June of 2011 that present different information, making it difficult to accurately analyze the school's ability to operate or repay its debts.

- The current attendance accounting system appears to be inadequate, and teachers and staff may not have adequate training to record attendance accurately.

- Due to last-minute changes to the school calendar and a lack of clarity over appropriate supervision by credentialed teachers, it is unclear whether CCCTEC has offered the minimum number of days and minutes of instruction to receive full apportionment funding.

- Certificated staff have attested that CCCTEC is anywhere from one to four months behind in issuing paychecks. Teachers have reported walking off the job due to a failure of CCCTEC to issue paychecks or paychecks being returned due to insufficient funds in the CCCTEC account.

- On March 5, 2011, the Yolo County Office of Education (Yolo COE) reported to the CDE that CCCTEC was not current in its California State Teachers Retirement System (CALSTRS) payments to Yolo COE, and that CCCTEC issued a check to Yolo COE that was returned due to insufficient funds. After multiple communications between CDE and CCCTEC and Yolo COE, on March 15, 2011, CCCTEC authorized Yolo COE to redirect a portion of CCCTEC's of in-lieu tax proceeds to cover the CALSTRS payment. As of June 15, 2011, Yolo COE reported that no payroll information had been submitted from CCCTEC since February 2011.

- On March 7, 2011, the CDE was contacted regarding CCCTEC's participation in the federal Carol M. White Physical Education Program (PEP) grant program as CCCTEC had not been responsive to inquiries from the PEP grant office. The CDE requested that CCCTEC respond to these inquiries. On May 9, 2011, the PEP grant office conducted an on-site monitoring review, which resulted in the release of a monitoring report on May 31, 2011. Findings documented in this report require CCCTEC to appropriately document expenditures of funds from the PEP grant and to return $57,651 to the program by June 10, 2011, with no extensions granted.

- The CDE has been presented with delinquent accounts payable from several vendors who report being paid with checks that were returned for insufficient funds. The CDE has made multiple communications between these vendors and CCCTEC. One vendor reports that as of June 10, 2011, over $5,000 is still owed by CCCTEC.

2. CCCTEC appears to have violated a provision of law (*EC* Section 47607[c][4]):

- CCCTEC does not appear to be compliant with *EC* Section 47605(l), which requires teachers of core subjects to possess an appropriate credential or other document authorizing them to teach the subjects to which they are assigned.

In response to communications received by CDE indicating that teachers may not have been paid and that teachers may have been planning to walk off the job, the CDE requested a meeting with Mr. Preston, the CCCTEC board, and a CCCTEC teacher representative on Monday, June 6, 2011. Due to concerns raised at the meeting, on June 9, 2011, the CDE requested that CCCTEC provide evidence regarding communication with teachers about the lack of payment of salaries and documentation regarding the payment of salaries. CCCTEC provided information to the CDE on June 12, 2011;

however, the information provided was incomplete. In addition, the CDE conducted a site visit to CCCTEC on June 8, 2011. During the site visit, the CDE was informed of the likelihood of attendance audit findings and that the last day of school was going to be moved up to the following Friday, a week earlier than scheduled.

In addition, SBE Executive Director Sue Burr contacted you on June 27 to provide advance notice that this matter would be publicly noticed on July 1, 2011 and considered by the SBE at the July 13-14 SBE meeting

Failure to provide substantial evidence that refutes, remedies, or proposes to remedy all of these alleged will provide grounds sufficient to form the basis for an action to revoke the CCCTEC charter pursuant to *EC* Section 47607(c). On September 7, 2011, the SBE in a public hearing will consider whether there is substantial evidence to refute or remedy each alleged violation, at which time it may issue a Notice of Intent to Revoke, pursuant to *EC* Section 47607(e). If the SBE issues a Notice of Intent to Revoke, the SBE will hold a public hearing on September 8, 2011, at which time the SBE will determine whether sufficient evidence exists to revoke CCCTEC's charter. This letter serves as a formal Notice of Violation, pursuant to *EC* Section 47607(d) and provides CCCTEC a reasonable period in which to address these concerns.

A written response and supporting evidence addressing each of the above-outlined issues must be received by Sue Burr, Executive Director, SBE at 1430 N Street, Ste. 5111, Sacramento, CA, 95814 no later than the close of business (5:00 p.m. Pacific Standard Time) on **Friday, July 22, 2011:**

1. A budget and cash flow statement that includes all sources of revenue and liabilities, including, but not limited to, the following items:

    a. Revenues for the remainder of the current fiscal year and through February 2012, including, but not limited to, the following (do not include grant funds):

        i. Revenue from the state

        ii. Revenue from other sources, including but not limited to, revenue from subleases

        iii. Revenue from the sales of receivables, less any interest or administrative fees

    b. Liabilities for the remainder of the current fiscal year and through February 2012, including, but not limited to, the following:

        i. Certificated staff salaries, broken down by full-time equivalents

ii. Classified staff salaries, broken down by full-time equivalents

iii. Certificated and classified staff health and retirement benefits, including California State Teachers Retirement System benefits

iv. Repayment of funds to the Carol M. White PEP grant fund as outlined in the site visit report dated May 31, 2011

v. Facilities lease payments and utilities

vi. Liability insurance and worker's compensation insurance premiums

vii. Repayment of sold receivables

viii. Any apportionment or other funding owed to the state

ix. Any in lieu taxes or other payments due to the local district or county as a result of overpayment

x. Any funds reserved for potential audit exceptions

xi. Any outstanding invoices due to vendors, including, but not limited to, Athletics Unlimited

2. Evidence of highly-qualified status and proper credentialing for all core teachers employed in the 2010–11 and 2011–12 school years and a detailed plan regarding plans to recruit and hire highly-qualified and properly credentialed teachers for the 2011–12 school year, including master schedules that identify teacher assignments for each course

If you have any questions or need any additional information regarding this Notice of Violation, please contact Sue Burr, Executive Director, SBE at 916-319-0827 or via email at SBurr@cde.ca.gov.

Sincerely,

Michael W. Kirst

Dr. Michael Kirst, President
California State Board of Education

MK:cg

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 20

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Request for Proposals, Evaluation of California's Public Charter Schools Grant Program, 2010-2015.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the Request for Proposals (RFP), Evaluation of California's Public Charter Schools Grant Program (PCSGP), 2010–2015 and direct the CDE, in consultation with the executive director of the SBE and/or the SBE liaisons, to perform all actions required to finalize and post the RFP.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

The United States Department of Education (ED), Office of Innovation and Improvement, awards federal Charter School Program (CSP) grant funds to state educational agencies to increase understanding of charter schools and to expand the number of high-quality charter schools available to students across the nation. State educational agencies use the grant funds to provide sub-grants to charter developers for planning, program design, and initial implementation of new and conversion charter schools, and to support the dissemination of information about successful charter school practices that result in improving the achievement of students and closing the achievement gap to public charter and non-charter schools.

California has received federal CSP grant funds since 1995. At its January 2010 meeting, the SBE acted to direct the CDE to apply for up to $300 million in federal CSP grant funds for a total award period of five years. On May 7, 2010, the CDE, on behalf of the SBE, submitted an application to ED for a $300 million award for the 2010–15 grant cycle. The ED awarded California a $300 million 2010–15 CSP grant in August 2010, and the state received funds for fiscal year 2010–11 in October 2010.

SUMMARY OF PREVIOUS… (Cont.)

At its July 2010 meeting, the SBE approved the 2010–15 Request for Applications (RFA) for Planning and Implementation Grants, the U.S. Department of Education approved California's application in August 2010, and the RFA was posted on the CDE

Funding Web site during November 2010. California's sub-grant program, the PCSGP, is administered by the CDE on behalf of the SBE, and the CDE distributes PCSGP funds to charter developers through the RFA process.

SUMMARY OF KEY ISSUES

- California's CSP grant requires that the CDE and SBE jointly select an independent external evaluator for the 2010–15 grant cycle. The evaluator is to provide detailed responses to all research questions posed in California's approved application for the CSP grant, as well as to determine the extent to which all objectives for the grant are met.

- The RFP is for a four year period based on CDE's receipt of the federal CSP funds and state budget authorization, as well as satisfactory performance of the contractor.

- CDE expects to bring two additional PCSGP documents to the SBE for approval: 1) an RFP to provide technical assistance for charter preplanning during the 2011–12 fiscal year, and 2) a dissemination grant RFA during the 2012–13 fiscal year.

- The goal of the PCSGP is to increase student achievement that leads to closing the achievement gap through high-quality charter schools. To meet this goal, the objectives of the 2010–15 PCSGP are: (1) increase the number of high-quality charter schools in California; (2) strengthen charter school sustainability through capacity building; (3) improve academic achievement of charter school students; and (4) disseminate information regarding best practices from high-quality charter schools.

- California estimates that the PCSGP will assist in expanding the number of charter schools in the state by approximately 610 new schools from 2010 through 2015. PCSGP funds will be used to incentivize developers to open high-quality charter schools in the attendance areas of the state's persistently lowest-performing schools, thereby offering choice and options to parents and students for a higher quality education to help California close student achievement gap.

- The state's approved federal application for PCSGP funds included the following table.

SUMMARY OF KEY ISSUES (Cont.)

Project Year 1	Project Year 2	Project Year 3	Project Year 4	Project Year 5

2010–11	2011–12	2012–13	2013–14	2014–15
111 new grants	117 new grants	122 new grants up to 10 dissemination grants	127 new grants up to 10 Dissemination grants	133 new grants

- During the 2010–11 fiscal year, the CDE provided PCSGP funds to 117 schools that were originally approved for grants during the 2007–10 grant period and to 30 new applicants.

- Between 2012 and 2014, California expects to award up to 20 dissemination grants to charter schools that have been successful in improving the academic achievement of students that will enable the grant recipients to partner with charter and non-charter public schools to disseminate their best practices.

FISCAL ANALYSIS (AS APPROPRIATE)

Approval of the Public Charter Schools Grant Program Evaluation, 2010–2015, Request for Proposals will allow CDE to initiate the process of contracting for an external evaluator as required by this grant. The CDE expects to use up to $1.65 million (.5%) of the CSP grant funds California is to receive during the five year grant period for this evaluation. This amount was part of the grant calculation and does not reduce the grant funds allocated for sub-grants.

ATTACHMENT(S)

Attachment 1: Request for Proposals, Evaluation of California Public Charter Schools Grant Program, 2010–2015 (83 Pages).

DRAFT Request for Proposals

Evaluation of California's Public Charter Schools Grant Program, 2010–2015

January 2012–July 2015

Charter Schools Division

California Department of Education

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Attachment 10…….....Intent to Submit a Proposal

PUBLIC CHARTER SCHOOLS GRANT PROGRAM, 2010–2015
INDEPENDENT EVALUATION

DRAFT Request for Proposals

The California Department of Education (CDE) is requesting proposals for an evaluation of the California Public Charter Schools Grant Program, 2010–2015 (PCSGP) to be performed in accordance with the United States Department of Education, Policy and Evaluation Unit requirements. To be considered, all bidders must strictly comply with this Request for Proposals (RFP), including the timely submission of two separate proposals: (1) a Technical Proposal containing the components identified in Section 5.4 of this RFP, which addresses in detail the bidder's experience, qualifications, and approach to the project; and (2) a Cost Proposal that details the cost to complete the tasks in the Technical Proposal under a Cost Reimbursement Contract (defined in Section 4.7). The Proposals will be evaluated by the CDE in a two-step process pursuant to California *Government Code* Section 10344(b) to determine the lowest responsible bidder.

The final contract will incorporate by reference both the Technical Proposal and the Cost Proposal submitted by the successful bidder, as well as other provisions of this RFP, including the substantive provisions from Section 3 through Section 6, the contract terms and requirements in Section 7, the general terms and conditions referenced in Section 8.0, and the evaluation process and contract award protest procedures in Sections 9.0 through 11.0, as well as all attachments, appendixes, and documents incorporated by reference. Please note in particular, the funding contingency clause in Section 7.3. The projected funding and source are described in Section 4.2 of this RFP.

All proposals and related documents submitted in response to this RFP will become the property of the State of California. The CDE will make available all proposals and related documents in their entirety for public inspection and reproduction. Submission of a proposal is acceptance of these and other terms set forth in this RFP.

Pursuant to California *Education Code* Section 32370, the CDE has committed to the reduction of paper waste; therefore, information that is available on the Internet will be referenced in this RFP but will not be appended to it.

1.0 PURPOSE

This RFP invites submissions from eligible bidders to conduct an independent evaluation of the effectiveness of the PCSGP for developing new high-quality charter schools and the effectiveness of the technical assistance provided to the developers by the CDE. The goal for the PCSGP is to expand the number of high-quality charter schools and to disseminate information from high-quality charter schools to other public charter and non-charter schools in order to increase student achievement and to close the achievement gap. The evaluation is to be based on information gathered from the CDE Charter Schools Division (CSD), California charter schools that receive PCSGP Planning and Implementation Grants, and California charter schools that received PCSGP Dissemination Grants and the schools with which they partner.

The project described in this RFP will begin after the contract is fully executed by the California Department of General Services (DGS), which is expected to be no earlier than January 1, 2012.

2.0 BACKGROUND

The CDE applied to the United States Department of Education (USDE) for Charter Schools Program (CSP) grant funds for 2010–11 through 2014–15 fiscal and school years. The CDE proposed expanding the number of charter schools in California by an estimated 610 new schools during the five-year grant period. The project is designed to incentivize charter school developers to open high-quality charter schools in the attendance areas of the state's persistently lowest performing schools. California's application was approved in August 2010 and first year funds for this grant cycle were received in October 2010. California has received CSP funding since 1995 and had received a three-year CSP grant for fiscal and school years 2007–08 through 2009–10. CSP grants are typically awarded to states for three years, but California requested and received a waiver for a five-year grant for the current funding cycle. CSP funds were approved by the USDE to: 1) fund the CDE PCSGP administration team, 2) provide planning and implementation grants for new charter schools, 3) provide training for charter authorizers--local educational agencies and county offices of education, 4) provide technical assistance for the development of new charter petitions, and 5) provide dissemination grants to successful charter schools to disseminate information regarding promising practices to charter and traditional public schools.

The goal of California's PCSGP, 2010–2015 is to increase student achievement that leads to closing the achievement gap through high-quality charter schools. Four objectives have been defined to meet this goal:

1. Increase the number of high-quality charter schools in California.
2. Strengthen charter school sustainability through capacity building.
3. Improve the academic achievement of charter school students funded through the PCSGP.
4. Disseminate best practices from high-quality charter schools.

Table 1 identifies the estimated number of new school grants the CDE expects to award during the five years of this grant cycle.

Table 1. Estimated Number of Awards by Project Year

Year 1 2010–11	Year 2 2011–12	Year 3 2012–13	Year 4 2013–14	Year 5 2014–15
111 new schools	117 new schools	122 new schools Plus Up to 10 dissemination grants	127 new schools Plus Up to 10 dissemination grants	133 new schools

During the 2007–2010 PCSGP cycle, the CDE awarded Planning and Implementation grants to 175 applicants. One hundred seventeen (117) of these continued to receive funds from the 2010–2015 grant funds. Fifty-six of these continuing grantees will continue to receive PCSGP funds through the 2011–12 FY. These schools were required to submit new applications and to meet the criteria for the 2010–2015 grant .cycle. The monies allocated for continuing grantees reduced the money available for new schools. CDE received 82 applications for new schools by March 31, 2011. Based on guidance received from the USDE, the CDE encumbered the full grant awarded to new sub-grantees. Thus 30 new sub-grantees were funded in the 2010-11 FY. Of the remaining 52 applications, 15,were disapproved, withdrawn or ineligible to apply for the grant and 37 were carried over to the 2011–2012 FY, when new funding becomes available.

The USDE approved the CDE application for 2010–2015 funding during August 2010, and the first payment from the USDE was received on October 22, 2010.

A Request for Applications (RFA) for new and continuing schools was approved by the State Board of Education (SBE) in July 2010 but could not be distributed until the federal funds were received. The *Public Charter Schools Grant Program Request for Applications, 2010–2015* (RFA) was posted on the Internet on November 1, 2010, and the online application was posted on November 15, 2010. The CDE held a Webinar on November 4, 2011, to familiarize potential applicants with the eligibility requirements and the procedures for applying for a grant during the 2010–2015 grant cycle.

The application was removed from the CDE Web site on April 1, 2011, because 2010-11 funding had been exhausted. The RFA and application underwent minor revisions (most of which reflect 2011-12 changes to the new peer review process) and are being reposted in July and August respectively.

2.1 Application Screening and Scoring

Scoring Planning and Implementation Grant Applications 2010–2011 Fiscal Year

During the first year of the 2010 – 2015 grant cycle, all applications were scored by CSD staff. There are two CSD teams: 1) a team that is funded through and works only with the PCSGP, and 2) a team that provides oversight for charter schools authorized by the SBE. The PCSGP team prepared training documents for screening and scoring the applications and trained all consultants in the SBE oversight team on the scoring procedures. The CSD used a multi-step scoring process for all applications:

1. PCSGP staff screened each application for continuing and potential new grantees to verify that:
   - The school had an approved charter.
   - The school had not been open for more than 12 months .
   - The school met the definition of being highly autonomous.
   - The school's public random drawing/lottery procedures complied with state law and federal guidelines.
   - The Work Plan section of the application included all required components.

2. Following the application screening, letters were sent to applicants detailing issues to be addressed.

3. The applications for continuing grants were scored and approved by PCSGP team members. Applications for new grants were scored independently by a PCSGP team member and an SBE oversight team member.

4. Following the independent scoring of applications for new grants, the two scorers met to discuss and calibrate scores. In cases where discrepancies would result in one scorer approving grant funding and the other disapproving funding, the application would be forwarded to an outside reviewer. During the 2010 – 2011 FY, no third readings were required.

Scoring Planning and Implementation Grant Applications 2011–2012 and Subsequent Fiscal Years

Beginning with the 2011 – 2012 FY all grant applications will be scored by outside peer reviewers, to include charter school developers and charter school associations. CSD staff will continue to review applications for completeness and will train all peer reviewers. Each application will be scored by two peer reviewers. In cases where the reviewers have discrepant scores, one would result in approval for grant funding and the second would not, the application will be submitted to a third reviewer. The scores of the third reviewer will be used to determine if the application will be approved for funding.

Dissemination Grants—2012–2013 and 2013–2014

Applications for dissemination grants also will be scored by outside peer reviewers. CSD staff will review the applications for completeness and train the peer reviewers. Like the Planning and Implementation Grants, each application will be scored by two peer reviewers and applications with discrepant scores will go to a third reviewer. The

scores of the third reviewer will be used to determine if the application will be approved for funding.

3.0 SCOPE OF THE EVALUATION

The contract to be awarded under this RFP is for up to four years from approximately January 1, 2012, through July 31, 2015. After June 30, 2012, annual renewal of the contract will be based on the contractor's performance, the continued receipt of PCSGP funds from the USDE, and legislative approval to spend the funds.

This RFP seeks proposals addressing four main tasks:

- Task 1 -- Outlines monthly reports, meetings, and meeting requirements (e.g., agenda and minutes), and requirements for CDE review and approval of deliverables.
- Task 2 -- Outlines requirements for evaluation design and analysis.
- Task 3 -- Outlines requirements for program evaluation procedures.
- Task 4 -- Outlines requirements for producing executive summaries, annual reports, and data files.

3.1 Task 1 – Comprehensive Plan and Schedule for Project Deliverables, Meetings, Activities, and CDE Approval Schedule

The Technical Proposal must include a comprehensive plan and detailed narrative schedule that outlines chronologically each activity necessary to complete the tasks specified in Section 3.0 to be performed under this contract. The narrative schedule must include proposed task initiation, completion dates, and level of effort (e.g., hours) by task for proposed personnel.

The comprehensive plan and schedule must include, but is not limited to, the following:

A. **Orientation Meeting.** The proposal must include an orientation meeting to occur within the first two weeks of the commencement of this contract. All key contractor and subcontractor personnel, including the management team, must meet in person with the CDE for up to four hours at the CDE headquarters in Sacramento, California. During the orientation meeting, the contractor must provide a review of each task and the proposed methods for implementation. The contractor must develop the meeting agenda in coordination with the CDE, take minutes, and, within five working days after the meeting, submit the minutes to the CDE by e-mail for review and approval. The orientation meeting must address all tasks, including timelines, questions, and concerns about implementation of the contract.

B. **Quarterly Management Meetings.** The proposal must include quarterly meetings to be held between the contractor's Project Manager and the CDE to

review and discuss task implementation and status. Other contractor staff and any subcontractors that the CDE requests must attend the meetings as appropriate to the task. The meetings may be held in-person at the CDE office, or may be conducted via teleconference. The contractor must develop the meeting agenda in coordination with the CDE, take minutes, and, within five working days after the meeting, submit the minutes to the CDE by e-mail for review and approval.

C. **State Board of Education Meetings.** Upon request from the CDE, the contractor may be asked to provide periodic presentations at the State Board of Education meetings. For the purposes of this project, the contractor must plan and budget for at least one of these meetings for FY 2011–12, and contingent on renewal of the contract for FYs 2012–13, 2013–14, and 2014–15. These meetings may require in-person attendance and are typically held in Sacramento.

D. **Monthly Progress Reports.** The proposal must include monthly reports detailing progress on all relevant tasks and activities. The reports shall include, at a minimum, a description of all project tasks completed, deliverables produced, unanticipated outcomes or problems, and tasks planned for completion the following month. The monthly progress reports must also identify significant operational problems needing corrective action, if any, and include recommended actions and a timeline for correction of identified problems.

Monthly progress reports must be submitted by the tenth business day of the following month. The purpose of the monthly progress reports is to provide a basis for tracking progress and making improvements. Each monthly progress report will be used to evaluate the corresponding monthly invoice, so the progress report must reflect all tasks specified in the monthly invoice. An original monthly progress report (signed by the contractor's Project Manager) must be submitted to the CDE with the monthly invoice.

E. **Third Year Meeting.** The proposal must include a meeting no later than October 2013 to finalize the evaluation procedures and time line for schools that receive dissemination grants. All key contractor and subcontractor personnel, including the management team, must meet in person with the CDE for up to four hours at CDE headquarters. During the meeting, the contractor must provide a review of each task and the proposed methods of implementation. The contractor must develop the meeting agenda in coordination with the CDE, take minutes, and within five working days after the meeting submit the minutes to the CDE by e-mail for review and approval. The meeting must address all tasks, time lines, questions, and concerns related to evaluating the effectiveness of the PCSGP Dissemination Grants.

F. **CDE Approval Schedule.** The Technical Proposal must include a comprehensive plan and schedule that specifically conform to and incorporate the CDE approval schedule. Failure to do so may result in disqualification from this procurement.

The CDE must approve all deliverables developed in conjunction with this contract. The contractor may not disseminate any written information, materials, or deliverables to the field, public, of any other third party without the CDE's prior written approval. The contractor is responsible for allowing sufficient time for the CDE to review the deliverables, and if necessary, for the contractor to make modifications as directed by the CDE to review and sign-off on the revised submission. The contractor is responsible for any costs associated with making modifications to deliverables necessary to obtain sign-off by the CDE. The Technical Proposal's comprehensive plan and schedule must specifically conform to the CDE approval schedule. Failure to do so may result in disqualification from this procurement.

Unless otherwise specified in this RFP or agreed to in writing by the CDE, the contractor must: (1) allow at least ten working days for the CDE to initially review each submission; (2) make all modifications within five working days from receipt of the changes directed by the CDE; and (3) allow the CDE at least five working days to review the modified submission. Review of draft annual reports may require 15–30 working days for CDE review. An approval/sign-off for any deliverable will be provided only when the CDE is satisfied with the submission. The contractor is responsible for any costs associated with making modifications to deliverables necessary to obtain CDE approval. (Refer to RFP, Section 7, Contract Terms and Requirements.)

The CDE's review and approval of independent evaluation reports will typically be limited to a review of contract adherence and inclusion of all required report sections. The contractor must adhere to the CDE Style Guidelines, Correspondence Guide, and Web posting requirements. Occasional report content edits may be required, but in all cases the integrity of the independence of the evaluation will be maintained.

3.2 Task 2 – Evaluation Design and Analysis Plan

The Technical Proposal must describe evaluation and confidentiality procedures including, but not limited to, research design, data collection, and statistical methods that will be used to conduct analyses of the Planning and Implementation Grants awarded between FYs 2010–11 and 2014–15 and the Dissemination Grants awarded during FYs 2012–13 and 2013–14. The comprehensive evaluation of the PCSGP must adhere to current professionally accepted research principles. The PCSGP Evaluation contractor shall ensure that only appropriate personnel will have access to electronic files and data. The evaluation contractor must protect the confidentiality of individual student results pursuant to the Family Educational Rights and Privacy Act (FERPA).[1] At a minimum, protection of student privacy precludes access to individual student results or easily traceable student information by any person or any organization other than the student, the student's parent or guardian, or the charter school. (Refer to RFP, Section 4.7 for the definition of a charter school.)

[1] 20 United States Code (U.S.C.), Section 1232g; 34 CFR Part 99, and *EC* Section 49073 et seq.

Task 3 – PCSGP Evaluation Procedures

The Technical Proposal must describe the program evaluation procedures that will be used to conduct the evaluations and prepare the evaluation reports described in Section 3.4. The results of the following subtasks, including recommendations for improvement to administrative systems, data collection methods to support performance measures, and training and technical assistance the CDE can offer to grantees to achieve greater program success must be reported in the Annual Evaluation Reports. (Refer to RFP, Section 3.4.)

A. Planning and Implementation Grants

The evaluation for each year of the contract includes six distinct groups of schools:

1. Phase 1--Planning grant year—schools that will open the next school year
2. Phase 2--Implementation grant year 1—schools that are in their first year of operation
3. Phase 3--Implementation grant year 2—schools that are in their second year of operation
4. Phase 4--Year 3—Schools that received PCSGP grants that ended prior to or at the beginning of the third year of operation
5. Phase 5--Year 4—Schools that received PCSGP grants that are in year four of operation
6. Phase 6--Year 5—Schools that received PCSGP grants that are in year five of operation

Data collected annually are likely to be related, but not limited to:

- Demographic information about the community the charter school serves.
- Student achievement data, particularly the results on state reading and mathematics assessments, from surrounding schools and the funded charter school.
- Student enrollment numbers and retention rates from year to year.
- Rates of attendance, expulsions, graduation, and transfers for surrounding schools and the charter school.
- Information about prospective students on waiting lists.
- Information about parent and community participation and satisfaction with the school.
- A description of the activities completed and any analysis on their impact on the design and/or operation of the school.

The evaluator is responsible for developing the criteria and methodology to determine the effectiveness of the PCSGP Planning and Implementation Grants in attaining the first three objectives identified in Section 2.0 of this RFP.

Objective 1: Increase the Number of High-Quality Charter Schools in California

Measureable objectives for this area include the following:

- A total of 610 charter schools will receive PCSGP funding and open during the grant period of August 1, 2010 – July 31, 2015.
- Eighty percent (80%) of PCSGP grant recipients that have been in operation for at least three years will have APIs five or more points higher than the mean API of non-charter schools in the same attendance area.
- Seventy-five percent (75%) of PCSGP recipients will have an average attendance rate of at least 95% during each year of the grant.

Questions that should be answered for this objective include, but are not limited, to the following:

1. How are charter schools using grant funds to become high-quality charter schools? (As defined in the California *Education Code* Section 47605(b)(5).
2. How many new high-quality charter schools, by county and district, opened each year and in total during the grant period?
3. What percentage of charter authorizers reported better than average academic performance for charter schools authorized by them that received PCSGP funds?
4. What are the early signs that indicate the potential of leading to high-quality charter schools that the CDE can disseminate to charter authorizers?
5. Do charter authorizers follow the processes, procedures, and timelines for charter approval (*EC* 47605), renewal and revocation (*EC* 47606)?
6. What, if any, differences are there in the startup operations between and among charter schools being opened by independent developers, those being opened as statewide benefit charter schools, and those being opened by Charter Management Organizations?
7. Has the CDE selected contractors to provide charter development technical assistance to charter developers planning new schools?

Objective 2: Strengthen Charter School Sustainability through Capacity Building

Measureable objectives for this area include the following:

- One hundred percent (100%) of PCSGP funded charter schools will complete governance training by the end of year one of their implementation grant.
- One hundred percent (100%) of PCSGP funded charter schools will complete fiscal management training by the end of year one of their implementation grant.
- One hundred percent (100%) of governing boards of PCSGP funded charter schools will comply with all state and federal regulations and demonstrate fiscal health during each year of grant funds as measured by—

  - Adequate reserves and ending balances,
  - Evidence of sound planning and adequate funding to support long-term goals, and
  - Budgets that reflect school priorities that include student academic outcomes.

- Eighty percent (80%) of PCSGP funded charter schools will have developed teacher effectiveness measures that include student achievement data as a substantial portion of the teacher evaluation by the end of their grant period.
- Ninety percent (90%) of PCSGP funded charter schools will report annually that services received from the charter authorizer (including facilities and other services) are satisfactory.

Questions that should be answered for Objective 2 include, but are not limited, to the following:

1. How are PCSGP planning and implementation funds used to implement capacity building that increases the sustainability of new charter schools?
2. At what rate did charter schools that received PCSGP grants close compared to charter schools that did not receive grants?
3. What percentage of PCSGP funded charter schools completed governance training by the end of the first year of implementation?
4. What was the quality of the governance training?
5. What, if any, barriers did schools encounter in obtaining high quality governance training?
6. What percentage of PCSGP funded charter schools developed a teacher effectiveness measurement system that includes student achievement as a substantial portion of teacher evaluations?
7. What percentage of PCSGP funded charter school obtained Proposition 39 facilities versus other facility solutions compared to non-PCSGP funded charter schools?
8. How available, accessible, and effective in building charter school capacity was the technical assistance provided by the CDE?

Objective 3: Improve the Academic Achievement of Charter School Students

Measureable objectives for this area include the following:

- By the end of the PCSGP grant period, 75% of PCSGP funded charter schools operating for at least four years will have met or exceeded their annual growth targets by school and subgroups in at least two of three years.
- PCSGP funded charter schools will have a minimum 80% year-to-year student retention rate.

- PCSGP funded charter high schools (excluding dropout recovery high schools) that have operated for at least five years will have a minimum 80% cohort graduation rate.
- After two years of operation, each PCSGP funded charter school will have at least 56% of its students reach proficiency in reading as measured by the California Standards Tests (CSTs), California Modified Assessment (CMA), and California Alternate Performance Assessment (CAPA).
- After four years of operation, each PCSGP funded charter school will have at least 67% of its students reach proficiency in reading as measured by the California Standards Tests (CSTs), California Modified Assessment (CMA), and California Alternate Performance Assessment (CAPA).
- After two years of operation, each PCSGP funded charter school will have at least 58% of its students reach proficiency in mathematics as measured by the California Standards Tests (CSTs), California Modified Assessment (CMA), and California Alternate Performance Assessment (CAPA).
- After four years of operation, each PCSGP funded charter school will have at least 70% of its students reach proficiency in mathematics as measured by the California Standards Tests (CSTs), California Modified Assessment (CMA), and California Alternate Performance Assessment (CAPA).

Questions that should be answered for Objective 3 include, but are not limited, to the following:

1. How does student achievement in PCSGP funded charter schools compare to student achievement in non-charter public schools? Separately consider address achievement for each of the following population subgroups, as appropriate:
    - All students
    - English learners (ELs) and non-English learners
    - Students with no reported disabilities and students with disabilities
    - Students identified as economically disadvantaged and students identified as not economically disadvantaged
    - Students identified by ethnicity and race

1. What percentage of students in PCSGP funded charter schools scored proficient and advanced on the California Standards Tests (CST), California Modified Assessment (CMA), and California Alternate Performance Assessments (CAPA) in English language arts, mathematics, history, and science?

2. What percentage of students in PCSGP funded charter schools who did not score proficient or advanced on the California Standards Tests (CST), California Modified Assessment (CMA), and California Alternate Performance Assessments (CAPA) in English language arts, mathematics, history, and science increased their achievement level by at least one performance level from one grade to the next?

3. What percentage of English learners in PCSGP funded charter schools advanced at least one performance level on the California English Language Development Test (CELDT) during each year of instruction?

4. To what extent did student achievement change overall and for the subgroups listed above for PCSGP funded charter schools located in the attendance areas of or serving students from persistently low-achieving schools?

5. To what extent did PCSGP funded charter schools implement proven methods of improving student academic achievement through the following:

- Professional development and teacher training programs?
- Using data, including formative and summative assessments, to inform and improve instruction?
- Using effective and varied instructional strategies in the classroom or through online instruction, as appropriate?

The evaluation studies for academic achievement should use the prior year's data for each year of the contract as shown in Table 2.

Table 2. Contract Year Matched to Academic Achievement Data School Year

Contract Year	Academic Achievement Data to Be Used
Fiscal Year 2011-12	School Year 2010–11
Fiscal Year 2012-13	School Year 2011–12
Fiscal Year 2013-14	School Year 2012–13
Fiscal Year 2014-15	School Year 2013–14

The procedures used to evaluate the PCSGP effectiveness and to obtain information for the preceding questions shall include, but not be limited to, the following:

- **Site Visits.** Visit charter schools that received PCSGP Planning and Implementation Grants.
- **Interviews.** Interview CDE Charter Schools Division staff; charter school administrators, teachers, parents, and students; and members of the charter school's governing board.
- **Surveys.** Conduct surveys of governing board members, charter school administrators, teachers, parents, and students.
- **Focus Group Meetings.** Hold focus group meetings to collect information reactions to the administration and suggestions for improvement of the PCSGP from charter school developers and administrators.
- **Academic Achievement Data.** Collect and analyze academic achievement data for individual students and schools to determine if schools that received PCSGP funds are meeting their student outcome measures. Academic Performance Index (API) and Adequate Yearly Progress (AYP) indicators must be included in the analysis.

B. Dissemination Grants

During FYs 2013-14 and 2014-15, the evaluator also is responsible for developing the criteria and methodology to determine the effectiveness of the PCSGP Dissemination Grants in attaining the fourth objective identified in Section 2.0 of this RFP.

Objective 4: Disseminate Best Practices from High-Quality Charter Schools

Measureable objectives for this area include the following:

- Dissemination grants will be awarded to up to 10 charter schools in both years three and four of the grant period to disseminate best practices for increasing student achievement among charter schools and other public schools in California.
- One hundred percent of dissemination grant recipients will make at least one public presentation about their dissemination project at a meeting, conference, or other education related training during the first year of their dissemination grant.
- One hundred percent of dissemination grant recipients will make at least one public presentation about their dissemination project at a meeting, conference, or other education related training during the second year of their dissemination grant.
- Eighty percent (80%) of dissemination grant participants will report an increase in awareness and knowledge of charter school best practices.
- After two years of partnering with the charter school, all participant schools will achieve at least 5 points growth in API scores.

3.4 Task 4 -- Evaluation Reports and Data Files

The Technical Proposal must include a plan for producing annual reports, including executive summaries, as well as monthly progress reports. The evaluation reports are required by the dates specified and must go through a CDE review and approval process. The contractor may produce separate or combined reports for the Planning and Implementation and Dissemination Grants for FYs 2013–14 and 2014–15. If single reports are prepared, the reports must have clearly delineated sections for the two types of grants.

The PCSGP Evaluation contractor is responsible for all clerical and technical staffing and costs to produce draft, preliminary, and final reports. All final documents must adhere to the CDE Style Guidelines, Correspondence Guide, and Web posting requirements, which can be found on the CDE Spelling, Punctuation, and Grammar Web page at http://www.cde.ca.gov/re/di/ws/dspunctuation.asp. All final documents

must be provided on a Compact Disc (CD) in a Microsoft Word format used by the CDE, as well as a PDF version suitable for Web posting.

The Technical Proposal must describe procedures that will be used to create the following reports and data files:

A. Monthly Progress Reports. The PCSGP evaluation contractor must submit monthly progress reports to the CDE that detail the activities that were begun or completed during the month and activities planned for the following month. The reports should include any surveys, meeting invitations, lists of expected participants by school and classification, meeting agendas, etc. for CDE review and approval.

B. Annual Reports. The PCSGP evaluation contractor must submit annual reports to the CDE that include the evaluation findings by grant cycle year for all objectives and questions detailed in Section 3.3 of this RFP. All charter schools in Phases one through six for the Planning and Implementation Grants in Section 3.3 and all charter schools awarded Dissemination Grants plus all charter and non-charter schools that receive training and/or other services from Dissemination Grant recipients must be included in the annual reports.

4.0 GENERAL PROPOSAL INFORMATION

4.1 Bidder Eligibility

Non-profit organizations, institutions of higher education, and/or private consultants may submit proposals in response to this RFP. Bidders must have at least 24 months of recent experience in conducting similar evaluations of grant funded or other projects. In order to maintain the objective quality of the independent evaluation, the contractor and subcontractors are excluded from bidding on this RFP, as is any other bidder who has a conflict of interest that would appear to reduce the bidder's ability to provide an entirely independent and objective evaluation, if they have participated in the development of the charter, PCSGP application, or the operation of any charter school that has received a PCSGP 2010-2015 Planning and Implementation Grant.

The bidder must have extensive experience in evaluating school district and school based programs, as well as evaluating academic achievement indicators and data. The bidder must have used a variety of evaluation designs employing both quantitative and qualitative data collection.

The successful bidder must be legally constituted and qualified to do business within the State of California. If required by law, any business entity required to be registered with the Secretary of State must submit a current Certificate of Good Standing issued by the California Secretary of State. (For information and to obtain a certificate, contact the Secretary of State at 1500 11th Street, Sacramento, CA 95814. **Allow sufficient time to obtain the certificate. It may take the Secretary of State's office six weeks or more to process the request.**) If the bidder's legal status does not require a filing or registration with the California Secretary of State, a separate paragraph in the cover letter must clearly state the bidder's legal status and evidence that it is legally

constituted and qualified to do business with the State of California. With the exception of organizations whose legal status precludes incorporation (e.g., public agencies, sole proprietorships, partnerships) bidders that are not fully incorporated by the deadline for submitting proposals will be disqualified.

4.2 Contract Funding and Time Period

Time Period

The CDE anticipates that the contract start date to perform work described in this RFP will begin on approximately January 1, 2012, and continue through June 30, 2015. The actual start date of the contract is contingent upon approval by the California Department of General Services (DGS), California's receipt of federal funding, and legislative approval for use of the federal funds for this purpose.

Funding

Contract funding is contingent upon appropriation in the annual Budget Act. (Refer to Funding Contingency Clause, RFP Section 7.3). The total amount available for this project is $1.5 million from federal budget allocations for FYs 2011–12 through 2014–15.

Table 3 below provides the estimated total maximum amount available for each subsequent fiscal year of the contract, if the contract is renewed:

Table 3. Contract Amount by Fiscal Year

Fiscal Year	Estimated Amount
2011–12	$ 500,000
2012–13	$ 350,000
2013–14	$ 400,000
2014–15	$ 400,000
TOTAL	**$ 1,650,000**

If insufficient funds are appropriated for the work in this contract, the State may cancel the contract with no liability accruing to the State and the bidder shall not be obligated to perform any work, or the contract may be amended by CDE/SBE and the successful bidder to reflect a reduction of work and the reduced appropriation subject to appropriate government agency approval.

The services of the contract may be extended for future fiscal years, at the same or lower rates, if the funds associated with this contract are made available to the State by the United States Government for the purpose of this project.

4.3 Cost of Preparing a Proposal

The costs of preparing and delivering the proposal are the sole responsibility of the bidder. The State of California will not provide reimbursement for any costs incurred or related to the bidder's involvement or participation in the RFP process.

4.4 Bidder's Conference

A bidders' conference will be conducted on Tuesday, September 13, 2011, at 1430 N Street, Room 2102, Sacramento, California beginning at 2:30 p.m. Pacific Time (PT). The purpose of the bidders' conference is for the CDE to provide an overview of the RFP including Disabled Veteran Business Enterprise (DVBE) requirements and for potential bidders to ask clarifying questions. All questions, asked either during the bidders' conference or outside the bidders' conference as described in Section 4.6 of this RFP, must be submitted in writing. Responses to written questions regarding the RFP will be posted on the CDE Web site by October 7, 2011. Responses to questions regarding DVBE will be posted on CDE Web site, only as available.

Cost of travel and all other expenses incurred to attend the bidders' conference is the sole responsibility of the proposed bidder/attendee and will not be reimbursed by the CDE.

4.5 Intent to Submit a Proposal

Bidders are required to submit an Intent to Submit a Proposal (Attachment 10), via mail, hand-delivery, e-mail, or facsimile (fax), that must be received by noon PT on Friday, September 23, 2011. The Intent to Submit a Proposal does not require an organization to subsequently submit a proposal; however, a proposal will not be accepted unless an Intent to Submit a Proposal is submitted on time.

The Intent to Submit a Proposal must be signed by the bidder or the bidder's representative and include the title of the person signing the Intent to Submit a Proposal and show the date of submission. Questions regarding this RFP may be included with the Intent to Submit a Proposal (see also Section 4.6) and must be received via mail, hand-delivery, e-mail or facsimile by noon PT on Friday, September 23, 2011.

The Intent to Submit a Proposal and questions regarding the RFP should be mailed, hand-delivered, or faxed to:

Public Charter Schools Grant Program
Charter Schools Division
California Department of Education
1430 N Street, Room 5401
Sacramento, CA 95814

Fax: 916-322-1465, E-mail CHARTERS@cde.ca.gov
(Please include "PCSGP" in the subject line.)

It is the bidder's responsibility to ensure that the Intent to Submit a Proposal reaches the Charter Schools Division no later than noon PT on Friday, September 23, 2011.

4.6 Questions and Clarifications

Bidders may submit questions, requests for clarification, concerns, and/or comments (hereinafter referred to collectively as "questions") regarding this RFP. All questions must be submitted in writing and may be submitted with the Intent to Submit a Proposal. The bidder must provide contact information, including company name and the name, e-mail address, and telephone number for the specific contact person with its submission of questions. The bidder must specify the relevant section and page number of the RFP for each question submitted. Questions must be received by noon PT on Friday, September 23, 2011. The CDE will make every effort to respond to all questions that are submitted in the proper form and received by noon PT on September 23, 2011, on the CDE Web site, where responses will be available for all bidders to consider in their proposals. At its discretion, the CDE may respond to questions that are submitted late or not in proper form. The CDE reserves the right to rephrase or not answer any question submitted.

All questions must be submitted either by e-mail, fax, or mail. The use of e-mail for submission of questions is encouraged. Address e-mail to CHARTERS@cde.ca.gov or fax to 916-322-1465. (Please include "PCSGP" in the subject line.) Any questions submitted by mail must be sent to the address specified in Section 4.5 of this RFP.

Note that questions regarding compliance with DVBE requirements must be directed to CDE Contracts Office at 916-445-8440. Responses to substantive questions regarding DVBE compliance requirements directed to the CDE Contract Office less than 72 hours prior to the proposal due date may not be available.

4.7 Definitions

- "Aggregate Data File" shall mean a file that allows for the tracking of individual charter schools that received PCSGP Planning and Implementation Grants. The file is to include data for the years during which each school received PCSGP funds and up to one year after the completion of the each school's grant funding that are used to determine the quality of each school's program.

- "Bidder" shall mean each and every business entity, sole proprietorship, partnership, public or private corporation, agency, organization, or association with at least 24 months of recent experience in evaluating school district and/or school based programs that submits a proposal in response to this RFP.

- "Charter School" is a public school established by a developer according to California charter school laws that operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency, which may be a local school district, a county office of education, or the State Board of Education.

- “Contractor” shall mean the bidder selected by the CDE as the business entity to administer its proposal and subsequent contract to support the accomplishment of all tasks described in this RFP.

- “Cost reimbursement contract” provides for payment of allowable incurred costs related to services performed, to the extent prescribed in the contract. These contracts establish an estimate of total cost for the purpose of obligating funds and establishing a ceiling that the successful bidder may not exceed for each line item, except as specified in Section 7.1 of this RFP.

- “Data Dictionary” means a document describing the data in the data file, including but not limited to, the number of records in the file, variable or field names and data types, and file location. This document shall utilize the CDE’s common data element names, common definitions, and code sets, and be provided in PDF and text file formats.

- “Fiscal Year” means the state fiscal year July 1 through and including the following June 30.

- “Planning and Implementation Grant” means a Public Charter Schools Grant Program grant awarded by the CDE to a charter school developer for up to a year of planning to open a new school and up to two years of implementation following the opening of a new school.

- “Portions of work” shall be defined by the bidder for purposes of compliance with Disabled Veterans Business Enterprise (DVBE) requirements. *Public Contract Code* Section 10115.12(a)(2) precludes the use of more than one subcontractor to perform a “portion of work” as defined by the bidder in his or her proposal if a subcontractor identified as a DVBE is to be used for that portion of work.

- “School year” means the school year July 1 through and including the following June 30.

- “Specifications” shall mean the minimum specifications required by the CDE for a task, subtask, or activity. Specifications provided in this RFP represent a comprehensive outline of the detail required in the bidder’s proposal for successful accomplishment of a task, subtask, or activity.

- “Subcontract” shall mean any and all agreement(s) between a bidder and another entity (including, but not limited to, an individual or business) for the accomplishment of any task, subtask, or activity, in whole or in part, described in this RFP, or to provide goods or services in support of the work described in this RFP.

- “Subcontractor” shall mean each and every entity (including but not limited to an individual or business) with whom a bidder enters into any agreement for the accomplishment of any task, subtask, or activity, in whole or in part, described in

this RFP, or to provide goods or services in support of the work described in this RFP. All persons who are not employees of the bidder are to be considered subcontractors.

- "Successful bidder" shall mean the business entity selected by the CDE as the business entity to administer its proposal and subsequent contract to support the accomplishment of any task(s) described in this RFP.

- "Working days" shall mean days Monday through Friday, inclusive, but exclusive of CDE-observed holidays.

4.8 Tentative Schedule

Activity	Action Date
Request for Proposal Released	July 29, 2011
Bidders' Conference	September 13, 2011 (2:30 p.m. PT)
Intent to Submit a Proposal	September 23, 2011, (noon PT)
Receipt of Questions from Bidders Due	September 23, 2011 (noon PT)
Responses to Questions Posted on the CDE Web site	October 7, 2011 (5 p.m. PT) (Tentative)
Proposals Due	November 4, 2011 (noon PT)
Review of the Proposals	November 7–9, 2011 (Tentative)
Public Bid Opening	November 11, 2011 (9:30 a.m. PT) (Tentative)
Posting of Intent to Award (five-day posting period)	November 14–18, 2011 (Tentative)
Anticipated Contract Start Date	January 1, 2012 (contingent upon DGS approval)

5.0 EVALUATION SPECIFICATIONS

5.1 General Requirements

Each bidder must submit a Technical Proposal that describes its experience, its qualifications to conduct the required activities, and its approach to completing the tasks. One original (clearly marked original) and six copies of the technical proposal, along with all required attachments, must be sealed, marked, and packaged separately from the cost proposals. The technical proposals submitted must comply with the format and content requirements detailed in this section. All technical proposals must be clearly labeled on the outside of the envelope or package with the following proposal title:

Technical Proposal for the
Public Charter Schools Grant Program Evaluation
January 1, 2012 – June 30, 2015

Proposals sent by regular postal service, express courier or hand-delivered must be directed to the CDE at the following address:

Public Charter Schools Grant Program
Charter Schools Division
California Department of Education
1430 N Street, Room 5401
Sacramento, CA 95814

Separate from the Technical Proposal, each bidder must submit a cost proposal that describes the costs for completing the tasks in the technical proposal. One original (clearly marked original) and six copies of the cost proposal must be sealed, marked, and packaged separately from the technical proposals. The cost proposal will NOT be opened unless the technical proposal has met the requirements of Step 1, Parts 1 and 2 (refer to RFP, sections 9 and 11). All cost proposals must be clearly labeled on the outside of the envelope or package with the following proposal title:

Cost Proposal for the
Public Charter Schools Grant Program Evaluation
January 1, 2012 – June 30, 2015

The full submission, consisting of both the technical proposal and the cost proposal (packaged and addressed separately, as described above), must be received no later than noon PT on November 4, 2011, at the CDE. Transmission by electronic mail (modem/internet) or fax shall not be accepted. It is the bidder's responsibility to ensure that the submission is received by CDE by the deadline. If the proposal is hand-delivered on November 4, 2011, deliver it to designated CDE staff in the lobby of 1430 N Street, Sacramento, CA 95814 between 10 a.m. and noon PT.

The CDE staff cannot assist bidders in meeting the requirements of this RFP. Proposals not received by the date and time specified will not be accepted and will be returned to the sender marked "LATE RESPONSE." Each proposal must be complete when submitted. Incomplete proposals may be considered noncompliant and may not be reviewed.

The terms and conditions within the State's proposed agreement as set forth herein are not negotiable. In the event a proposal is submitted that in any way deviates, alters, modifies, or otherwise qualifies any of the terms herein, such act will constitute a basis for rejection of the proposal at the sole discretion of the CDE.

CDE reserves the right to amend, modify, or cancel this RFP, in whole or in part, prior to the award of any contract by issuing an addendum or erratum to all parties. The CDE may waive any immaterial deviation or defect in a proposal. The CDE's waiver of a deviation or defect shall in no way modify the RFP documents or excuse the successful

bidder from full compliance with the RFP specifications if awarded the contract. The CDE reserves the right, at its sole discretion, to overlook, correct, or require a bidder to remedy any obvious clerical or mathematical errors on a proposal, if the correction does not result in an increase in the bidders' total price. Bidders may be required to initial corrections. In the event of a conflict between the successful bidder's proposal and the RFP, the RFP will control. (See also Section 5.6)

The successful bidder's Technical and Cost Proposals will be incorporated into the final contract, which is a public document. All proposals (technical and cost) and related documents submitted pursuant to this RFP become the property of the State of California. All Technical Proposals and Cost Proposals that advance to Cost Proposal opening are public documents and will be made available in their entirety for public inspection and reproduction. Submission of a proposal is acceptance of these terms. The bidder waives any and all claims based on the CDE's release of such information.

WARNING! DO NOT include the "budget" or any financial or price information with the Technical Proposal sections. Failure to comply with this requirement may disqualify the proposal from consideration.

5.2 Disabled Veteran Business Enterprise Program Requirements (*Public Contract Code* Section 10115 et. seq.)

Enclosed with this RFP (Attachment 3) are the California DVBE Program Requirements. These requirements apply whether conducting business as a public agency, profit or non-profit individual, partnership or corporation. **Recent legislation has modified the program significantly in that a bidder may no longer demonstrate compliance with program requirements by performing "good faith effort" (GFE).** In order to be deemed responsive and eligible for award of the contract, the bidder must attain the prescribed goal.

The DVBE participation goal or GFE must be based on the total amount of the Cost Proposal.

Bidders must document DVBE participation commitment by completing and submitting the Bidder Declaration (GSPD-05-105). The GSPD-05-105 can be accessed at: http://www.documents.dgs.ca.gov/pd/delegations/GSPD105.pdf (Outside Source). The GSPD-05-105 must be completed and submitted with the proposal. Bidders should use the DVBE Program Requirement Checklist to ensure that all required documentation is submitted and included with the proposal. Failure to submit a completed GSPD-05-105 and all required documentation as instructed in Attachment 3 will render the bid non-responsive and shall result in automatic disqualification. Additionally, your proposal will be disqualified if DVBE requirements are not met.

Final determination of "meeting the goal" by the bidder shall be at the sole discretion of the CDE.

5.3 DVBE Incentive Option

In accordance with Section 999.5(a) of the *Military and Veterans Code*, an incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply an incentive to bids that propose California certified DVBE participation as identified on the Bidder Declaration GSPD-05-105 submitted with the proposal and confirmed by the State. The incentive amount for awards based on the lowest responsive/responsible Cost Proposal received will vary in conjunction with the percentage of DVBE participation. The following table represents the percentages that will be applied towards the bidder's Cost/Price Proposal amount:

Confirmed DVBE Participation of:	DVBE Incentive:
100% (prime contractor)	5%
Over 3%	4%
3%	3%

Bidders must complete the GSPD-05-105 form to document DVBE participation commitment as specified in Section 5.2 of the RFP.

5.4 Technical Proposal Sections

The Technical Proposals submitted in response to this RFP must address all tasks and requirements identified herein, and must be written such that sections in the proposal clearly correspond with each task and the related activities identified in this RFP. Failure of the bidder to meet any of the stated requirements in a task may, at the discretion of the technical review panel, result in disqualification or rejection. (Refer to RFP, sections 9 and 11.) The contractor must comply with all tasks and requirements set forth in this RFP, and must comply with all laws and regulations pertaining to the PCSGP in the performance of work in furtherance of the contract established pursuant to this procurement.

The bidder must plan and budget for the costs of all subtasks and activities. **However, cost information must not be included within the Technical Proposal.** (Refer to RFP, Section 5.5, for information regarding submission of cost information.)

All information necessary to judge the technical soundness and the management capabilities of the bidder must be contained in the Technical Proposal. Bidders must submit a Technical Proposal that addresses in detail all of the tasks, subtasks, and activities in this RFP. Bidders must follow the Technical Proposal format and content requirements detailed in this section.

The bidder must prepare and submit a Technical Proposal that includes all of the following components: (1) Cover Letter; (2) Table of Contents; (3) Scope of the Project; (4) Management and Staffing; (5) Related Capacity and Experience; (6) Requirements for all Subcontractors; and (7) all required attachments specified in this RFP, including, but not limited to, a completed and signed Certification form (CCC-307), a completed Small Business Preference Sheet and DVBE participation documentation, a completed and signed Payee Vendor Data (Std. 204), and a completed, and if applicable, signed

Darfur Contracting Act Certification. Federal Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (RFP, Attachment 4) must be completed, signed and dated with an original signature on the form included in the ORIGINAL Technical Proposal and a copy of the form included with each copy of the Technical Proposal (refer to RFP, Section 5.4.G). The proposal must be submitted in this order and additional sections are not to be included. Do not attach pamphlets, letters of support (except from any proposed subcontractors) or other items that are not specifically requested in this section. Any additional sections or materials not specifically requested in this RFP will not be reviewed. Additionally, do not provide alternative responses or options in a single proposal.

The Technical Proposal must be presented in a narrative format demonstrating the bidder's ability to meet all qualifications and requirements specified in this RFP. The Technical Proposal must be clearly organized and easy to follow. All pages of the Technical Proposal, including pages with charts, must be numbered sequentially. The Technical Proposal must use the section and subsection headings specified in the RFP.

Bidders may not include any budget, price, or financial information in any section or required attachment of the Technical Proposal. Cost information included in any section or in any required attachment to the Technical Proposal may result in disqualification and removal of the proposal from further review at the sole discretion of CDE. Redact dollar figures before the proposal is submitted to CDE (e.g., DVBE attachments, letters of agreement from subcontractors, etc.).

IF ANY COSTS, RATES, OR DOLLAR AMOUNTS APPEAR IN THE TECHNICAL PROPOSAL, THE BIDDER'S PROPOSAL MAY BE DISQUALFIED.

A. Cover Letter

Include a copy of the cover letter with each technical proposal. The cover letter must:

1. Acknowledge that all rights to any hard copy/electronic material report or other material or application developed by the bidder or its subcontractors in connection with his agreement shall be the sole property of CDE.

2. Attest to the bidder's eligibility in terms of being legally constituted and qualified to do business in California. (Refer to RFP, Section 4.1.)

3. Use the bidder's true corporate name, indicate any fictitious name under which the organization is doing business ("doing business as"), or, in the case of an entity whose legal status precludes incorporation, clearly state the bidder's legal status in a separate paragraph.

4. Acknowledge that the bidder will conduct all tasks and activities specified in the RFP Section 3.0, Scope of the Project.

5. Identify acceptance of the contract terms and requirements as specified in Section 7.0 of this RFP. No additional contract terms or requirements may be added or substituted by the bidder, and no modifications or corrections to stated contract terms and requirements can be made.

6. Acknowledge that the proposal, in its entirety, and related documents submitted in response to this RFP are public documents. The successful bidder's Technical Proposal and Cost Proposal will be incorporated into the final contract, which is a public document. All proposals (technical and cost) and related documents submitted pursuant to this RFP become the property of the State of California. All Technical Proposals and Cost Proposals that advance to Cost Proposal Opening are public documents and will be made available in their entirety for public inspection and reproduction. Submission of a proposal is acceptance of these terms. The bidder waives any and all claims based on CDE's release of such information.

7. Be signed by the individual qualified to make the offer to perform the work described in the RFP. In the case of organizations, an individual signing this letter must indicate his/her position title, and certify that he/she is authorized to make the offer on behalf of the organization. The mailing address, telephone number, e-mail address, and fax number of the authorized representative who signed the cover letter must be included.

8. Acknowledge that the bidder, and all its subcontractors, will complete, sign, date and return the required Conflict of Interest and Confidentiality Statement (RFP, Attachment 6) as a condition of receipt of the contract.

9. Acknowledge that the bidder and subcontractors engaging in services to the CDE related to this RFP and resulting contract, will complete, sign and date their required Confidentiality and Non-Disclosure Agreement (RFP, Attachment 7) form, which must be kept on file by the bidder and made available to the CDE upon request, as a condition of receipt of the contract. Individual employees do not need to sign this form.

10. Acknowledge that the bidder and subcontractors and each of their employees engaging in services to CDE related to this RFP and the resulting contract, will complete, sign and date the required California Department of Education Computer Security Policy (RFP, Attachment 8) form, which must be kept on file by the bidder and made available to the CDE upon request, as a condition of receipt of the contract.

11. Acknowledge that the bidder and all subcontractors are not contractors or subcontractors on any projects related to this RFP.

B. Table of Contents

The Technical Proposal must include a Table of Contents, which identifies, by page number, all the section and subsection headings in the Technical Proposal.

C. Scope of the Project

The Technical Proposal must include detailed narrative plans to manage and accomplish the scope of work for each task (as specified in RFP, Section 3.0).

D. Management and Staffing

The Management and Staffing section must present a plan for the internal management of contract work that will ensure accomplishment of the tasks.

1. Management Plan–To be successful, this project requires an effective management plan that enables the approved bidder to complete tasks on schedule and within budget. The management plan must include clearly identified procedures for:

    a. Managing project personnel, subcontracts (if any), and fiscal resources;

    b. Ensuring adherence to the schedules and deadlines;

    c. Ensuring high-quality products and outcomes;

    d. Identifying potential problems early and resolving those problems in a timely manner;

    e. Maintaining close communication with the CDE; and

    f. Monitoring and controlling project expenditures.

2. Management Staff–The proposed management team must include a Project Manager, Fiscal Manager, and, if subcontractors are used, a Project Coordinator for each subcontract. (Refer to Section 4.7 of this RFP for the definition of subcontractor.) The proposal must describe in detail the professional qualifications of the individual members of the proposed management team and each contract participant/subcontractor working on this project who will exercise a major administrative, major policy or consultant role. In addition, the proposal must include résumés for the proposed management team and for each contract participant/subcontractor who will exercise a major administrative role or major policy or consultant role, as identified by the contractor. Bidders must have at least 24 months of recent experience in conducting similar evaluation programs for school districts and/or school based programs.

3. Staff Organization Plan–The bidder must include in its proposal a staff organization plan. The plan must specify separately by each task identified in Section 3 of this RFP and separately for each fiscal year, or part thereof, the following:

a. All job positions (including, but not limited to all staff for which a résumé was provided or was required to be provided pursuant to Section 5.4.D of this RFP) assigned to each task.

b. For each job position identified above, the number of hours the job position will devote to each task.

c. The responsibilities of each job position for each specific task.

d. The job position and name of each supervisor who has approval authority over each job position identified above.

e. The relationship of the job position to the bidder, i.e., bidder, bidder's employee, subcontractor, or subcontractor's employee.

Contract participants/subcontractors who will exercise a major administrative role, major policy role or consultant role (i.e., for whom a résumé has been, or should have been, provided pursuant to this section) must be identified in the staff organization plan by name.

E. Related Capacity and Experience

1. Capacity–This section must describe the bidder's capacity and ability to perform and administer all tasks related to this RFP. If the bidder will be subcontracting a portion of the work, this section must include a description of the subcontractor's capacity and ability to perform the portion of the work in which the subcontractor will be involved. This section must also include a description of the bidder's and subcontractor's (if any) facilities, equipment, and technical capacity, including a description of all software and hardware that will be used in the performance of the work described in the bidder's proposal.

2. Experience–This section must describe the bidder's prior experience in conducting projects of a similar nature and scope including length of experience and dates of such work. This section must describe at least 24 months of experience in conducting similar evaluation programs for school districts and/or school based programs, and must specify the dates of such work. Additionally, if the bidder will be subcontracting any portion of the work, this section must describe the subcontractor's prior experience in performing the subcontracted portion of work and the dates of such work.

F. Requirements for all Subcontractors

1. Portion of Work–This section must include a short description of the proposed work for each subcontractor.

2. Letters of Agreement–The bidder must submit a letter of agreement for each proposed subcontractor. (DVBE subcontractor(s)/supplier(s) shall also comply with RFP, Attachment 3, DVBE Program Requirements.)

G. Required Attachments

The Technical Proposal must include the following completed attachments:

1. The Contractor Certification Clauses (CCC-307) must be completed, signed and dated with an original signature on the form included in the ORIGINAL Technical Proposal and a copy of the form included with each copy of the Technical Proposal. This form may be accessed at: http://www.documents.dgs.ca.gov/ols/CCC-307.doc (Outside Source).

2. The Small Business Preference Sheet (RFP, Attachment 1) must be completed, signed and dated with an original signature on the form included in the ORIGINAL Technical Proposal and a copy of the form included with each copy of the Technical Proposal. If the preference is being claimed, a copy of the certification letter from the Office of Small Business and Disabled Veterans Business Enterprise Services (OSDS) or a print out from the OSDS Web site at http://www.pd.dgs.ca.gov/smbus/default.htm (Outside Source) must be included.

3. A Bidder Declaration (GSPD-05-105), with each of the proposals, completed in accordance with the instructions provided on the form, commitment letter and OSDS certification letter or a print out from the OSDS Web site for each participating DVBE. (Refer to RFP, sections 5.2 and 5.3 and Attachment 3 for more information.)

4. The Payee Data Record (Std. 204) must be fully completed, signed and dated with an original signature on the form included in the ORIGINAL Technical Proposal and a copy of the form included with each copy of the Technical Proposal. This form may be accessed at: http://www.documents.dgs.ca.gov/osp/pdf/std204.pdf (Outside Source).

5. Federal Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (RFP, Attachment 4) must be completed, signed and dated with an original signature on the form included in the ORIGINAL Technical Proposal and a copy of the form included with each copy of the Technical Proposal.

6. A current original Certificate of Good Standing issued by the California Secretary of State, if applicable (see Section 4.1). If the business entity is not required to register with the Secretary of State, evidence of licenses required to do business in California.

7. The Conflict of Interest and Confidentiality Statement (RFP, Attachment 6) must be completed, signed and dated by the successful bidder, and all its

subcontractors, as a condition of receipt of the contract. The successful bidder must agree to this requirement by including an acknowledgement in the cover letter. (Refer to Section 5.4.A of this RFP.)

8. The Confidentiality and Non-Disclosure Agreement (RFP, Attachment 7) must be completed, signed and dated by the successful bidder, subcontractors and each of their employees engaging in services to the CDE related to this RFP and the resulting contract and kept on file by the bidder and made available to the CDE upon request, as a condition of receipt of the contract. The bidder must agree to this requirement by including an acknowledgement in the cover letter (see Section 5.4.A). Individual employees do not need to sign this form.

9. The California Department of Education Computer Security Policy (RFP, Attachment 8) must be completed, signed and dated by the bidder, subcontractors and each of their employees engaging in services to the CDE related to this RFP and the resulting contract and kept on file by the bidder and made available to the CDE upon request, as a condition of receipt of the contract. The bidder must agree to this requirement by including an acknowledgement in the cover letter (see Section 5.4.A).

10. Darfur Contracting Act Certification (RFP, Attachment 5) must be completed, and if applicable, signed and dated with an original signature on the form included in the ORIGINAL Technical Proposal and a copy of the form included with each copy of the Technical Proposal.

5.5 Cost/Price Proposal

Cost proposals must be submitted in a separately sealed envelope, marked as specified in Section 5.1. The contract will be awarded to the lowest responsible bidder meeting the requirements of this RFP. The lowest responsible bidder will be determined by the lowest total amount for the overall contract. The resulting contract will be a cost reimbursement contract. (Refer to RFP, Section 4.7 for the definition of cost reimbursement.)

The total contract bid amount must be for all tasks specified in the scope of the project, including work done by subcontractors, and all related overhead or indirect costs. Except as noted, the bidder is responsible for all logistics and costs incurred by the bidder or other program participants, including, but not limited to, travel costs (e.g., meals and lodging), meeting costs (e.g., meeting materials, interpreters, video hook-up fees, facilities rental, etc.), and reimbursement for substitute teacher costs associated with all meetings conducted to comply with this RFP. The successful bidder is responsible for its own costs associated with SBE meetings. The successful bidder is not responsible for costs of outside observers or CDE staff.

No costs, direct or indirect, shall be omitted from the Cost Proposal. Computations must be calculated to the exact cent (expressed in dollars to two [2] decimal places). A contract amendment may be considered in the following

circumstances: (1) CDE requests additional new work outside the scope of this RFP, (2) there is a change in scope due to legislative or SBE action, or (3) any budget line item change of more than ten percent (10%). (Refer to RFP, Section 7.1.) Budget line-items on the bidder's cost proposal must correlate with the tasks set forth in Section 3.0 of this RFP.

The following four fiscal years must be addressed in the cost proposal:

Fiscal Year 1:	2011–12	January 1, 2012–June 30, 2012
Fiscal Year 2:	2012–13	July 1, 2012–June 30, 2013
Fiscal Year 3:	2013–14	July 1, 2013–June 30, 2014
Fiscal Year 4:	2014–15	July 1, 2014–June 30, 2015

Cost Proposals must provide the computation for all costs (e.g., salaries, benefits, leases, overhead and indirect costs). Travel and per diem rates must not exceed those established for the State of California's non-represented employees, computed in accordance with and allowable pursuant to applicable Department of Personnel Administration regulations. (Refer to RFP, Attachment 9.)

The Cost Proposal must, at a minimum, contain the following sections:

- Cover Sheet
- Summary of all Costs by Task
- Summary of all Subcontractor Costs
- Task Detail

DO NOT include the "budget" or any related financial information with the Technical Proposal. IF ANY COSTS, RATES, OR DOLLAR AMOUNTS APPEAR IN THE TECHNICAL PROPOSAL, THE BIDDER'S PROPOSAL MAY BE DISQUALFIED.

In addition to the title of the proposal as specified in Section 5.1 of this RFP, the outside of the sealed envelope containing the cost/price bid information must read:

Cost Proposal
Public Charter School Grant Program Evaluation
January 1, 2012–June 30, 2015
Attention: Public Charter Schools Grant Program
Do not open before November 11, 2011
at 1430 N Street, in Sacramento, CA 95814

A. Cover Sheet

The first page of the Cost Proposal must be a Cover Sheet. Only the Cover Sheet will be read at the bid opening. The Cover Sheet must indicate the **total**

amount for the overall contract without any cost breakdowns. The Cover Sheet should state:

> **"[Insert Name of bidder]** proposes to conduct the work associated with the administration of the California Public Charter Schools Grant Program Evaluation January 1, 2012 –June 30, 2015 for $ **[insert dollar amount]**."

Any proposed costs submitted by the bidder that are not included in the total amount for the overall contract as stated on the Cover Sheet, are not binding on CDE, or the State of California, and the bidder will be legally bound to fully perform all work for the total amount stated and absorb such amounts not included.

B. Summary of all Costs by Task

The Cost Proposal must contain a section that summarizes all costs by each task identified in Section 3.0 and for each fiscal year, or part thereof. The tasks in the Cost Proposal must coincide with the tasks set forth in the RFP Section 3.0.The bidder must absorb any such itemized costs that fail to reconcile with the total amount.

C. Summary of Subcontractor Costs

The Cost Proposal must contain a section that summarizes by task each subcontractor's costs for each fiscal year, or part thereof. (Subcontractor costs include, but are not limited to, DVBE subcontractors.) The bidder must absorb any such annual costs that fail to reconcile with the total amount

D. Task Detail

The Cost Proposal must contain a section that in detail breaks down all costs associated with each task set forth in RFP Section 3.0 for each fiscal year, or part thereof. At a minimum, the detail must include individual line-items for the following:

1. Detailed labor costs including hourly salary rates and number of labor hours for each position title/staff person (must correspond with the hours and position titles contained in the Technical Proposal, Management and Staffing section).

2. Detailed operating expenses.

3. Overhead and indirect costs.

4. Acknowledgement that travel and per diem rates do not exceed those established for the State of California's non-represented employee's,

computed in accordance with and allowable pursuant to applicable Department of Personnel Administration regulations. (Refer to RFP, Attachment 9.) In addition, the task detail must identify the following:

- If applicable, which labor, goods, or services within a task are being provided by a subcontractor, including but not limited to DVBE subcontractor(s)/supplier(s).

- If applicable, which costs within a task are associated with information technology development. Development costs are defined as one-time costs and are inclusive of analysis, design, programming, data conversion, and implementation of an information technology investment. Development costs are exclusive of continued operating and maintenance costs.

The bidder must absorb any such itemized costs that fail to reconcile with the total amount.

5.6 Errors in a Bidder's Technical and/or Cost Proposal

An error in the proposal may cause rejection of that bid; however, the CDE may, at its sole discretion, retain the proposal and require certain corrections. In determining if a correction will be made, the CDE will consider the conformance of the bid to the format and content required by the RFP, and any unusual complexity of the format and content required by the RFP.

If the bidder's intent is clearly established based on review of the submitted proposal, the CDE may, at its sole discretion, require a bidder to correct an error based on that established intent. The CDE may, at its sole discretion, require a bidder to correct obvious clerical errors. The CDE may, at its sole discretion, require a bidder to correct errors of omission, and in the following three situations, the CDE will take state actions if the bidder's intent is not clearly established by the complete bid submittal:

1. If a deliverable, task, sub-task, or staff is described in the narrative and omitted from the cost proposal, it will be interpreted to mean that the deliverable, task, sub-task, or staff will be provided by the bidder at no cost.

2. If a deliverable, task, or sub-task is not mentioned at all in the bidder's proposal, the bid will be interpreted to mean that the bidder does not intend to perform that deliverable, task, or sub-task.

3. If a deliverable, task, or sub-task is omitted, and the omission is not discovered until after contract award, the bidder shall be required to perform that deliverable, task, or sub-task at no cost.

6.0 MONITORING

The CDE and all authorized state and federal control agencies must have access to all internal and external reports, documents, data, and working papers used by the contractor and subcontractors in the performance and administration of this contract. The CDE shall monitor all aspects of the contractor's performance.

The CDE Contract Monitor and the contractor's Project Manager must communicate on a monthly basis, as needed and scheduled by CDE, to review the contractor's progress and performance pursuant to Section 3.1.B of this RFP. The reviews will include, but not be limited to, any problems encountered under the contract, future performance under the contract, and any other subject related to completing the tasks under this contract. In addition, monthly

7.0 CONTRACT TERMS AND REQUIREMENTS

7.1 Compensation

For services satisfactorily rendered and upon receipt and approval of invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified in this RFP. Payments shall be made in arrears on a monthly basis upon receipt of an itemized invoice and a copy of the monthly progress report (see RFP, Section 3.1) of activities performed during the invoice period. Payment of the invoice will not be made until the CDE accepts and approves the invoice. To be approved, the invoice must include the level of detail described in Section 6.0 of this RFP for each task for the fiscal year in which the expense was incurred. The invoice must be easily comparable by CDE staff to the cost proposal submitted in response to this RFP. Except as specified below no line item invoiced may exceed the corresponding line item in the cost proposal.

In accordance with the requirements in *Public Contract Code,* Section 10346, the State shall retain from each payment not less than ten percent (10%) of the payment. Any funds so withheld with regard to a particular task may be paid upon satisfactory completion of that task, as determined by the State of California, and acceptance of all deliverables for that task, and upon submission of an annual report. The annual report will include details of each separate and distinct task completed in each fiscal year. This release shall occur no earlier than the conclusion of each fiscal year in which the task was completed.

Upon satisfactory completion of the contract, as determined by the State of California, final payment shall be made to the contractor. Final payment for the contract will not be made until the CDE accepts and approves the delivery of all contracted work, submission of a final invoice, and submission of a final Standard Form 4 by the CDE Contract Monitor.

All travel costs shall be reimbursed at rates not to exceed those established for the CDE's non-represented employees, computed in accordance with and allowable

pursuant to applicable Department of Personnel Administration regulations (RFP, Attachment 9).

Surplus funds from a given line item, within a fiscal year budget, may be used to defray allowable direct costs under the budget line items contained within the same fiscal year budget, up to ten percent (10%) with prior written approval of the CDE. Any change of more than ten percent (10%) requires a contract amendment and approval by the DGS. Budget adjustments shall not be allowed that increase compensation rates.

7.2 Prompt Payment Clause

Payment will be made in accordance with and within the time specified in, California *Government Code* Chapter 4.5, commencing with Section 927.

7.3 Funding Contingency Clause

It is mutually understood between the parties that this Agreement may have been written before ascertaining the availability of congressional or legislative appropriation of funds, for the mutual benefit of both parties in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.

This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government and approved by the California State Legislature for the purpose of this program. In addition, the Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms, or funding of this Agreement.

7.4 Contract Requirements Related to DVBE Participation Goals

A. Substitution

Contractor understands and agrees that should award of this contract be based in part on their commitment to use the Disabled Veteran Business Enterprise (DVBE) subcontractor(s) identified in their bid or offer, per Military and Veterans Code (M&VC) Section 999.5(e), a DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by the DGS. Changes to the scope of work that impact the DVBE subcontractor(s) identified in the bid or offer and approved DVBE substitutions will be documented by contract amendment.

Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the bid or offer may be cause for contract termination, recovery of damages under rights and remedies due to the State, and penalties as outlined in M&VC Section 999.9; Public Contract Code (PCC) Section 10115.10.

The contractor must request the substitution in writing to the contract monitor and the CDE, and the DGS must have approved the substitution in writing and documented by a contract amendment. At a minimum, the substitution request must include:

1. A written explanation of the reason for the substitution.

2. A written description of the substitute DVBE supplier/contractor, including its business status as a sole proprietorship, partnership, corporation or other entity, and the DVBEs certification status.

3. A written notice detailing a clearly defined portion of the work identified both as a task and as a percentage share/dollar amount of the overall contract that the substitute DVBE subcontractor/supplier will perform.

The request for substitution of the DVBE subcontractor/supplier must be approved in writing by the awarding department and the subsequent contract amendment approved by the DGS, prior to commencement of any work by the subcontractor/supplier.

The request for substitution of a DVBE and CDE's approval or disapproval cannot be used as an excuse for noncompliance with any other provision of law, including, but not limited to, the Subletting and Subcontracting Fair Practices Act (Sections 4100 et seq., Public Contract Code) or any other contract requirements relating to substitution of subcontractors.

If a contractor requests substitution of its DVBE subcontractor(s)/supplier(s) by providing a written request in accordance with Title 2 Section 1896.64(c), CDE may consent to the substitution of another DVBE subcontractor/supplier as a subcontractor/supplier in any of the following situations:

1. When the DVBE subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract, when that written contract based upon the general terms, conditions, plans and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.

2. When the listed DVBE subcontractor becomes bankrupt or insolvent or goes out of business.

3. When the listed DVBE subcontractor fails or refuses to perform the subcontract.

4. When the listed DVBE subcontractor fails or refuses to meet the bond requirements of the prime contractor.

5. When the prime contractor demonstrates to the CDE that the name of the DVBE subcontractor was listed as a result of an inadvertent clerical error.

6. When the listed DVBE subcontractor is not licensed pursuant to the Contractor's License Law, if applicable, or any applicable licensing requirement of any regulatory agency of the State of California.

7. When the CDE determines that the work performed by the listed DVBE subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the DVBE subcontractor is substantially delaying or disrupting the progress of the work.

Prior to approval of the contractor's request for the substitution, the CDE, or its duly authorized officer, shall give notice in writing to the listed DVBE subcontractor of the prime contractor's request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed DVBE subcontractor who has been so notified shall have five working days within which to submit written objections to the substitution to the awarding authority. Failure to file these written objections shall constitute the listed subcontractor's consent to the substitution.

If written objections are filed, the CDE shall give notice in writing of at least five working days to the listed subcontractor of a hearing by the awarding department on the prime contractor's request for substitution.

B. Reporting

If for this agreement contractor made a commitment to achieve DVBE participation, then contractor must within 60 days of receiving final payment under this agreement (or within such other time period as may be specified elsewhere in this agreement) certify in a report to the awarding department: (1) the total amount the prime contractor received under the contract; (2) the name and address of the DVBE(s) that participated in the performance of the contract; (3) the amount each DVBE received from the prime contractor; (4) that all payments under the contract have been made to the DVBE(s); and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (M&VC Section 999.5(d))

C. Compliance Audit

The contractor must agree that the State or its designee will have the right to review, obtain, and copy all records pertaining to performance of the contract. The contractor must agree to provide the State or its designee with any relevant information requested and shall permit the State or its designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. The contractor must further agree to maintain such records for a period of five years after final payment under the contract.

Failure to adhere to at least the DVBE participation proposed by the successful bidder may be cause for contract termination and recovery of damages under the rights and remedies due the State under the default section of the contract.

7.5 Contracts Funded by the Federal Government

It is mutually understood between the parties that this contract may have been written before ascertaining the availability of congressional appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays which would occur if the contract were executed after that determination was made.

This contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for fiscal year(s) covered by this agreement for the purposes of this program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress, which may affect the provisions, terms, or funding of this contract in any manner. It is mutually agreed that if Congress does not appropriate sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

The CDE has the option to void the contract under the 30-day cancellation clause or to amend the contract to reflect any reduction of funds.

The recipient shall comply with the Single Audit Act and the reporting requirements set forth in OMB Circular A-133.

7.6 Staff Replacements

Changes to any of the contractor's professional project personnel or management team (e.g., Project Manager or Fiscal Officer) or contract participant/subcontractor who exercises a major administrative role or major policy or consultant role, requires formal approval by the CDE Contract Monitor, and in most cases requires a contract amendment and approval by the DGS. The staffing change may not occur until the contractor receives written approval of the change by the CDE Contract Monitor, and written approval is required at least 30 days in advance of the staffing change.

7.7 Ownership of Materials

All materials developed under the terms of this agreement are the property of the CDE. The CDE reserves the exclusive right to copyright such material, and to publish, disseminate, and otherwise use materials developed under the terms of this agreement. No contractor or subcontractor staff may participate in any meeting or activity without prior written permission from the CDE Contract Monitor.

Copyright for the CDE must be noted on all materials produced for the purposes of this contract. The CDE acknowledges that any materials and proprietary computer programs previously developed by the contractor or its subcontractors shall belong to the contractor or its subcontractors.

7.8 Retention of Records

The contractor shall maintain accounting records and other evidence pertaining to costs incurred, with the provision that they shall be kept available by the contractor during the contract period and thereafter for five full years from the date of the final payment. The CDE must be permitted to audit, review, and inspect the contractor's activities, books, documents, papers and records during progress of the work and for five years following final payment.

7.9 Ownership and Disposition of Equipment

Equipment purchased under the provisions of the contract is the property of the State and shall be used for its intended purpose during the term of this agreement. An inventory of all equipment purchased under the contract shall be maintained. After termination of the agreement, equipment shall be disposed of in accordance with instructions from CDE.

7.10 Computer Software Copyright Compliance

By signing this agreement, the contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this contract for the acquisition, operation or maintenance of computer software in violation of copyright laws.

7.11 Information Technology Requirements

For contracts that require the Contractor to develop, modify or maintain any type of Web product (which includes but is not limited to a Web page, Web document, Web site, Web application, or other Web service), or contracts that include a Web product as a deliverable or result, Contractor hereby agrees to adhere to the following CDE standards:

A. All Web site and application pages/documents that can be seen by users must be reviewed and approved as required by the CDE DEAM 3900 process. Contractor agrees to work through the CDE Contract Monitor for this agreement to ensure the DEAM 3900 process is implemented.

B. Web sites and Web applications must adhere to the appropriate CDE Web standards as specified at http://www.cde.ca.gov/re/di/ws/webstandards.asp.

C. Contractor must provide the application and/or Web site source code, collected data, and project documentation in a form to be specified by the CDE according to the following time frame:

1. For new sites/applications: Within 30 days of implementation. For multi-year agreements, material must also be provided annually on the contract date anniversary during the contract period.

2. For existing sites/applications: Within 90 days of the contract renewal or amendment execution. For multi-year agreements, material must also be provided annually on the contract date anniversary during the contract period.

D. Contractor shall monitor the Web site/application on a monthly basis (or more frequently if necessary) to identify and correct the following issues:

1. Broken links

2. Dated content

3. Usability issues

4. Circumstances where the contractual agreement is not followed

E. Contractor agrees to not violate any proprietary rights or laws (i.e., privacy, confidentiality, copyright, commercial use, hate speech, pornography, software/media downloading, etc.). Also, the Contractor agrees to make all reasonable efforts to protect the copyright of CDE content and to obtain permission from the CDE Press Office to use any potentially copyrighted CDE material, or before allowing any other entity to publish copyrighted CDE content.

F. Contractor agrees that any Web applications, Web sites, data or other files which may be needed to restore the system in the event of disaster are backed up redundantly, and that a detailed, tested plan exists for such a restoration.

G. Contractor shall provide the CDE with Web site usage reports on a monthly basis during the contract period for each Web page, document or file which can be viewed by users. Additionally, Contractor shall provide an easy mechanism for users to provide feedback on the site/application, such as a feedback form.

7.12 Data Management Requirements

For contracts that require the contractor to conduct data collection services (including, but not limited to surveys, on-line web applications, program evaluation, legislative reports, and assessment), Contractor hereby agrees to adhere to the following CDE standards:

A. Privacy, Security and Confidentiality

If, in the course of carrying out this work, the contractor gathers or processes personal (private) information, the contractor must provide written assurance that the data will be managed in accordance with all applicable federal and California state privacy laws including, but not limited to: Family Educational Rights and

Privacy Act of 1984 (20 U.S.C. Section 1232g), Children's Online Privacy Protection Act (COPPA), and California *Education Code* sections 49069 to 49079. Examples of personal information include, but are not limited to: name, telephone, e-mail account, address, date of birth and social security number.

In addition, the contractor will be expected to demonstrate that it has taken specific steps to ensure the data are kept secure and confidential as evidenced by, at a minimum, the following:

1. Each and every employee, subcontractor or other person who has access to personal information is required to sign a statement that they understand that the information is personal and they will take steps to ensure that unauthorized personnel do not gain access to personal data.

2. Personal data, while being transmitted electronically, must be encrypted.

3. Any repository for the data will be locked and have access restricted to those personnel that have a legitimate need to access the data and have signed a confidentiality agreement.

Any security breach must be reported to the CDE immediately.

The CDE considers mailing information (including e-mail address) to be personal (private). As such, if the contractor asks a person for his or her mailing information, the contractor must make it clear to the person providing the information whether the information will be shared with any organization other than the CDE and the contractor. In addition, the contractor will provide the person providing the mailing information an "opt-out" (e.g., the person can elect to not have his or her mailing information shared with organizations outside of CDE and the contractor).

B. Data Ownership

The contractor understands that any and all data that are collected and/or generated by the work performed under this agreement are the sole property of the CDE.

C. Use of Preferred Variations

If gathering data or creating a database, the vendor agrees to use the CDE's preferred variations* for collecting and storing specific data.

* The preferred variation is the format or content that is accepted by CDE as the preferred way of storing and/or sharing data. It may not be the preferred variation in another organization.

D. Data Dictionaries

If the contractor is collecting data on behalf of the CDE, the contractor agrees to develop and maintain a complete data dictionary in accordance with the CDE specifications and provide that information, in electronic format, to the Data Management Improvement Program.

7.13 Information Security

The State Administrative Manual (SAM), the Statewide Information Management Manual (SIMM), and the Office of Information Security and Privacy Protection (OISPP) require the CDE to institute appropriate security measures and controls to provide for the confidentiality, integrity, and availability of information, regardless of its form (electronic, print, or other media) and to ensure business continuity and protection against unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems. (Refer to SAM, sections 5300–5399.)

The purpose of an information security policy is to establish and maintain a standard of due care to prevent misuse or loss of state agency information assets.

Contractor, subcontractor and subsidiaries and agents thereof shall adhere to the following:

A. Appropriate Levels of Confidentiality for the Data Based on Data Classification (SAM, Section 5320.5).

Information and data developed, transmitted and stored pursuant to this RFP is deemed confidential, personal, and sensitive information.

Confidential Information is defined as information maintained by state agencies that is exempt from disclosure under the provisions of the California Public Records Act (*Government Code*, sections 6250-6265) or other applicable state or federal laws.

Sensitive Information is defined as information maintained by state agencies that requires special precautions to protect from unauthorized use, access, disclosure, modification, loss, or deletion. Sensitive information may be either public or confidential. It is information that requires a higher than normal assurance of accuracy and completeness. Thus, the key factor for sensitive information is that of integrity.

Personal Information is defined as information that identifies or describes an individual as defined in, but not limited by, the statutes listed below. This information must be protected from inappropriate access, use, or disclosure and must be made accessible to data subjects upon request.

The contractor shall provide written assurance that all data and information assets will be managed in accordance with all applicable federal and California

state privacy laws including, but not limited to: Family Educational Rights and Privacy Act of 1984 (20 U.S.C. Section 1232g), Children's Online Privacy Protection Act (COPPA), and California *Education Code* sections 49069 to 49079.

B. Standards for Transmission and Storage of the Data.

Personal data, while being transmitted electronically, must be encrypted. Examples of personal information include, but are not limited to: name, telephone, e-mail account, address, date of birth and social security number.

Any repository for the data will be locked and have access restricted to those personnel that have a legitimate need to access the data and have signed a confidentiality agreement.

C. Signed Confidentiality Statements.

Each contractor and subcontractor is required to sign a Conflict of Interest and Confidentiality Statement (RFP, Attachment 6) and attest that its employees, agents, and associates involved in the performance of this contract are bound by terms of the confidentiality agreement with contractor similar in nature as a condition of receipt of the contract (see sections 5.4.A and 5.4.G of this RFP).

Similarly, any contractor and subcontractor and each of their employees engaging in services to the CDE related to this RFP and the resulting contract will be required to exercise security precautions for such data they may come in contact with. Each of the employees of the successful bidder, and any subcontractors and their employees must sign formal compliance agreements regarding confidentiality and non-disclosure and computer security policy (RFP, Attachments 6, 7, and 8) prior to commencing work identified in this RFP and will ensure that unauthorized personnel do not gain access to said data as a condition of receipt of the contract and kept on file by the bidder and made available to the CDE upon request. (Refer to RFP sections 5.4.A and 5.4.G.)

Agreements to apply security patches and upgrades, and keep virus software up-to-date on all systems on which data may be used. Contractor agrees to properly secure and maintain any computer systems (hardware and software applications) that it will use in the performance of this contract. This includes ensuring all security patches, upgrades, and anti-virus updates are applied as appropriate to secure data that may be used, transmitted, or stored on such systems in the performance of this contract.

D. Agreements to Notify the State Data Owners Promptly if a Security Incident Involving the Data Occurs.

Contractor shall immediately notify the CDE if it discovers that there may have been a breach in security, or unauthorized disclosure, which has or may have resulted in a compromise to confidential data or CDE assets. For purposes of this

section, immediately is defined as within twenty-four hours of discovery. The CDE contact for such notification is as follows:

Cindy S. Chan, Administrator
Charter Schools Division
California Department of Education
1430 N Street, Room 5401
Sacramento, CA 95814
Fax: 916-322-1465

The contractor shall take prompt corrective action to cure any deficiencies and any action pertaining to such breach, or unauthorized disclosures required by applicable federal and state laws and regulations. Contractor shall investigate such breach and provide a written report of the investigation to the CDE, postmarked within thirty (30) working days of the discovery of the breach to the address above.

7.14 Contract Amendment

The contract executed as a result of this RFP will be able to be amended by mutual consent of the CDE/SBE and the contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding. In addition, a contract amendment may be considered in the following circumstances: (1) CDE/SBE requests additional new work outside the scope of this RFP, (2) there is a change in scope due to legislative action, or (3) any budget line item change of more than ten percent (10%).

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

7.15 Potential Subcontractors

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the contractor of his responsibilities and obligations hereunder. The contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the contractor. The contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.

7.16 Subcontracting

The contractor is responsible for any work it subcontracts. Subcontracts must include all applicable terms and conditions of this Agreement. Any subcontractors, outside associates, or consultants required by the contractor in connection with the services

covered by this Agreement shall be limited to such individuals or firms as were specifically identified in the bid or agreed to during negotiations for this Agreement, or as are specifically authorized by the Contract Monitor during the performance of this Agreement. Any substitutions in, or additions to, such subcontractors, associates or consultants shall be subject to prior written approval of the Contract Monitor. The contractor warrants, represents and agrees that it and its subcontractors, employees and representatives shall at all times comply with all applicable laws, codes, rules and regulations in the performance of this Agreement. Should State determine that the work performed by a subcontractor is substantially unsatisfactory and is not in substantial accordance with the contract terms and conditions, or that the subcontractor is substantially delaying or disrupting the process of work, State may request substitution of the subcontractor.

7.17 Prohibition Against Outside Agreements

The contractor and subcontractor(s) must not enter into agreements related to products and/or services of this contract without the prior approval by the State of a work proposal and budget for the work proposed.

7.18 Confidentiality

The contractor shall not disclose data or documents or disseminate the contents of documents or reports without express written permission from the CDE Contract Monitor. Contractor shall not comment publicly to the press or any other media regarding its data or documents, or CDE actions on the same, except at a public hearing, or in response to questions from a legislative committee. The contractor must immediately notify CDE if a third party requests or subpoenas documents related to this contract.

7.19 Disclosure of Financial Interests

Offers in response to this RFP must disclose any financial interests that may, in the foreseeable contract, allow the individual or organization submitting the offer to materially benefit from the state's adoption of a course of action recommended in the development and administration of the PCSGP evaluation contract. During the performance of this contract, should the contractor become aware of a financial conflict of interest that may allow an individual or organization involved in this contract to materially benefit from this contract, the contractor must inform the State in writing within 10 working days. If, in the State's judgment, the financial interest will jeopardize the objectivity of the recommendations, the State shall have the option of terminating the contract.

Failure to disclose a relevant financial interest on the part of the contractor will be deemed grounds for termination of the contract with all associated costs to be borne by the contractor and, in addition, the contractor may be excluded from participating in the State's bid processes for a period of up to 360 calendar days in accordance with *Public Contract Code*, Section 12102(j).

Contractor should also be aware of the following provisions of *Government Code*, Section 1090:

> Members of the Legislature, state, county district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

7.20 Correspondence

Correspondence prepared by the contractor relating to the logistics of tasks to be performed by the contractor under the scope of work of this contract or correspondence of an informational nature related to the program supported by this contract which is prepared by the contractor must be reviewed by the CDE prior to mailing or distribution.

As a standard business practice, the contractor must "copy" the CDE Contract Monitor on each final letter, e-mail, and memorandum prepared by the contractor under the scope of work of this contract.

7.21 News Releases

The contractor must not issue any news releases or make any statement to the news media in any way pertaining to this contract without the prior written approval by the CDE, and then only in cooperation with the CDE.

7.22 CDE Approval of Deliverables

All approvals, orders for correction, or disapprovals from the CDE must be in writing. If the CDE deems a deliverable or product as unacceptable, the contractor shall make required corrections within the time frame required by the CDE.

Failure of the contractor to obtain prior CDE approval of deliverables or products shall not relieve the contractor of performing the related contract responsibilities and providing related required deliverables or products to the CDE. The contractor must accept financial responsibility for failure to meet agreed-upon timelines and quality standards.

The CDE shall have no liability for payment of any work, of any kind whatsoever, which commences without prior CDE approval.

7.23 Representational Conflicts of Interest

The Contractor must disclose to the CDE Contract Monitor any activities by contractor or subcontractor personnel involving representation of parties, or provision of consultation services to parties, who are opposed to CDE. The CDE may immediately

terminate this contract if the contractor fails to disclose the information required by this section. The CDE may immediately terminate this contract if any conflicts of interest cannot be reconciled with the performance of services under this contract.

7.24 Prohibition for Consulting Services Contracts

For consulting services contracts (see Public Contract Code, Section 10335.5), the contractor and any subcontractors, except for subcontractors who provide services amounting to ten percent (10%) or less of the contract price, may not submit a bid/proposal, or be awarded a contract, for the provision of services, procurement of goods or supplies or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of such consulting services contract (see Public Contract Code, Section 10365.5).

7.25 Unlawful Denial of Services (*Government Code*, Section 11135)

No person in the State of California shall, on the basis of ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is funded directly by the state or receives any financial assistance from the state.

With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

As used in this section, “disability” means any of the following with respect to an individual: (1) a physical or mental impairment that substantially limits one or more of the major life activities of the individual, (2) a record of an impairment as described in paragraph (1), or (3) being regarded as having an impairment as described in paragraph (1).

7.26 Right to Terminate

The State reserves the right to terminate this agreement subject to 30 days written notice to the contractor. The contractor may submit a written request to terminate this agreement only if the State should substantially fail to perform its responsibilities as provided herein.

However, the agreement can be immediately terminated for cause. The term “for cause” shall mean that the contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State’s notification to the contractor.

This agreement may be suspended or cancelled without notice, at the option of the contractor, if the contractor or State’s premises or equipment are destroyed by fire or

other catastrophe, or so substantially damaged that it is impractical to continue service, or in the event the contractor is unable to render services as a result of any action by any governmental authority.

7.27 Follow-on Contracts

No contractor, subcontractor, person, firm, or subsidiary thereof who has been awarded a consulting services contract, or a contract which includes a consulting component, (see *Public Contract Code*, Section 10335.5) may be awarded a contract for the provision of services, delivery of goods or supplies, or any other related action, which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services contract. (Refer to *Public Contract Code*, Section 10365.5.)

7.28 Loss Leader

It is unlawful for any person engaged in business within this state to sell or use any article or product as a “loss leader” as defined in Section 17030 of the *Business and Professions Code*.

8.0 GENERAL TERMS AND CONDITIONS

The General Terms and Conditions (GTC-610) apply to this RFP and will be incorporated by reference into any resulting contract. GTC-610 may be accessed at: http://www.documents.dgs.ca.gov/ols/GTC-610.doc (Outside Source).

9.0 EVALUATION PROCESS

Each proposal will be evaluated to determine responsiveness to the requirements and standards as described in this RFP. The CDE reserves the right to reject any or all proposals. Nothing herein requires the awarding of a contract in response to this RFP. The selection process complies with the requirements for competitive bidding in the *Public Contract Code*, Section 10344(b), requiring prospective bidders to submit their technical proposal in a separate sealed envelope or package from that of the cost proposal.

Following the time and date for receipt of proposals, each Technical Proposal will be opened and evaluated using a two-step process.

Step I.

Part 1. The initial part of Step I pertains to proposal requirements and minimum qualifications and standards. Proposals will be evaluated on a yes/no basis for all criteria in Step I. Receipt of a "no" may result in disqualification of the proposal and elimination of the bidder from further consideration.

Part 2. Technical evaluation, will yield numeric score ratings. A review panel will rate proposals on criteria described in the performance section. Any proposal receiving a

rating of less than 135 points will be rejected for failure to meet standards. A minimum of 135 out of 150 points is required for a proposal to be advanced to the bid opening.

Step II of the process is the public opening of the envelope containing the cost/price information. Only those proposals passing Step I of the process will have their envelopes opened and read. The public opening of the cost/price proposals for those passing the first step (Step I) will be held:

November 11, 2011 (tentative)
9:30 a.m. PT
1430 N Street, Room 1103
Sacramento, California 95814

The CDE Contracts Office will review the Cost Proposals for compliance with the standards and requirements in the RFP (see Step II, Adherence to Cost Proposal Requirements on page 67), including a review comparing the hours in the Cost Proposal with the hours in the management and staffing component of the Technical Proposal. The CDE reserves the right, at its sole discretion, to overlook, correct, or require a bidder to remedy any obvious clerical or mathematical errors on a proposal, if the correction does not result in an increase in the bidders' total price. Bidders may be required to initial corrections. Inconsistencies between the Technical Proposal and the Cost Proposal may result in the rejection of the proposal. (See also RFP, Section 5.6.)

The Small Business Preference and DVBE Incentive Option will be computed, by the Contracts Office, if required documentation is included in the proposal and adjustments to bid prices will be made accordingly. The contract will be awarded to the lowest responsible bidder meeting the specifications as described above.

A notice of the proposed bidder to receive the award will be posted for five working days beginning **November 14, 2011** through **November 18, 2011**(tentative), in the CDE lobby located at 1430 N Street, Sacramento, CA and on the CDE Funding Web page at http://www.cde.ca.gov/fg/fo/. After the five-day notice has been completed, the proposed awardee will be formally notified by mail. During the same period, proposals and rating sheets will be available for public inspection at **1430 N Street, Room 5401, Sacramento, California,** during normal business hours.

10. CONTRACT AWARD PROTEST PROCEDURES

If prior to the formal award, any bidder files a protest with the DGS against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the DGS has decided the matter. Within five days after filing the protest, the protesting bidder shall file with the DGS a full and complete written statement specifying the grounds for the protest. Protests shall be limited to those specified in *Public Contract Code*, Section 10345. (RFP, Attachment 2, describes the protest procedures to be followed by a bidder filing a protest.)

11.0 RATING CRITERIA AND EVALUATION FORM

FORMAT REQUIREMENTS AND EVALUATION CRITERIA

Bidder's Name: _____

Step I, Part 1—Adherence to Proposal Requirements

This step is rated on a yes/no basis and receipt of a "no" on any of the following may result in elimination of the proposal from further consideration and review.

❑yes ❑no 1. Bidder submitted an **Intent to Submit a Proposal** form (RFP, Attachment 10) by the specified deadline: September 23, 2011, no later than noon PT, as specified in RFP Section 4.5.

❑yes ❑no 2. Bidder submitted **one (1) clearly marked ORIGINAL Technical Proposal and six (6) copies of the Technical Proposal** and received by the specified deadline: November 4, 2011, no later than noon PT, as specified in RFP Section 5.1.

❑yes ❑no 3. Bidder submitted **one (1) clearly marked ORIGINAL Cost Proposal and six (6) copies of the Cost Proposal** in a separate, sealed envelope or package by the specified deadline: November 4, 2011, no later than noon PT.

❑yes ❑no 4. As specified in Section 4.1, is not a contractor or subcontractor for any charter school that applied for, received, or plans to apply for a Public Charter School Grant Program 2010–2015 Planning and Implementation or Dissemination Grant.

Cover Letter

5. As specified in RFP Section 5.4.A, the original and copies of the Technical Proposal contain a Cover Letter that:

❑yes ❑no a. Acknowledges that all rights to any hard copy/electronic material, report, or other material developed by the bidder or its subcontractors in connection with this agreement shall be the sole property of the CDE.

❑yes ❑no b. Acknowledges the bidder's commitment to conduct all of the tasks and activities specified in RFP Section 3.0, Scope of Project.

❑yes ❑no c. Attests to the bidder's eligibility in terms of being legally constituted and qualified to do business in California. (Refer to RFP, Section 4.1.)

❑yes ❑no d. Uses the bidder's true corporate name, indicates any fictitious name under which the organization is doing business ("doing business as"), or, in the case of an entity whose legal status precludes incorporation, clearly states the bidder's legal status in a separate paragraph.

❑yes ❑no e. Identifies acceptance of the contract terms and requirements as specified in Section 7.0 of this RFP.

❑yes ❑no f. No additional contract terms or conditions have been added or substituted by the bidder and no modifications or corrections to stated contract terms and requirements made.

❑yes ❑no g. Acknowledges that the bidder, and all its subcontractors, will complete, sign, date and return the required Conflict of Interest and Confidentiality Statement (RFP, Attachment 6), as a condition of receipt of the contract.

❑yes ❑no h. Acknowledges that the bidder and subcontractors and each of their employees engaging in services to the CDE related to this RFP and the resulting Contract, will complete, sign and date the required Confidentiality and Non-disclosure Agreement (Attachment 7) and CDE Computer Security Policy (Attachment 8) forms, which must be kept on file by the bidder and made available to the CDE upon request, as a condition of receipt of the contract.

❑yes ❑no i. Acknowledges that the bidder's proposal and all documents submitted in response to this RFP, are property of the State of California and are, in their entirety subject to public inspection and reproduction.

❑yes ❑no j. Cover Letter is only signed by the representative who is authorized to make the offer on behalf of the bidder to perform the work described.

❑yes ❑no k. Cover Letter indicates the position or title of the person signing the letter and certifies that he or she is authorized to make the offer on behalf of the organization/bidder includes mailing address, telephone number, e-mail address, and fax number for the authorized representative who signed the cover letter.

❑yes ❑no l. A copy of the Cover Letter is also included in each copy of the Technical Proposal submitted.

❑yes ❑no m. Cover Letter acknowledges that the bidder and all subcontractors are not contractors or subcontractors on any projects related to this RFP.

Table of Contents

6. As specified in RFP Section 5.4.B, the Table of Contents contained with the Technical Proposal:

❑yes ❑no a. Identifies by page number, all the section and subsection headings in the Technical Proposal.

❑yes ❑no b. Has been included with each copy of the Technical Proposal submitted.

Scope of the Project

7. Each task identified in Section 3.0, Scope of the Project, is addressed.

❑yes ❑no Task 1 – Comprehensive Plan and Schedule for Project Deliverables, Meetings and Activities, and CDE Approval Schedule

❑yes ❑no Task 2 – Evaluation Design and Analysis Plan

❑yes ❑no Task 3 – PCSGP Evaluation Procedures

❑yes ❑no Task 4 – Evaluation Reports and Data Files

Management and Staffing

8. As specified in Section 5.4.D, the bidder's proposal:

❑yes ❑no a. Includes a management plan that meets criteria specified in Section 5.4.D.

❑yes ❑no b. Validates that it has at least 24 months of recent experience in managing similar projects of comparable size and scope.

c. Identifies a management team that includes:

❑yes ❑no 1. Project Manager
❑yes ❑no 2. Fiscal Manager
❑yes ❑no ❑N/A 3. Project Coordinator for each subcontractor

d. Includes résumés for:

❑yes ❑no 1. Project Manager
❑yes ❑no 2. Fiscal Manager
❑yes ❑no ❑N/A 3. Project Coordinator for each subcontractor (if any)
4. Each contract participant/subcontractor who will exercise a major administrative role or major policy or consultant role, as identified by the contractor.

❑yes ❑no e. Describes at least 24 months of recent experience in conducting similar evaluation studies of grant funded activities.

❑yes ❑no f. Includes a staff organizational plan that complies with the requirements set forth in Section 5.4.D of this RFP.

Related Capacity and Experience

9. As specified in Section 5.4.E, the Technical Proposal contains a Related Capacity and Experience section. This bidder's proposal must:

❑yes ❑no a. Describe the bidder's (and subcontractor's if applicable) capacity and ability to perform and administer all tasks related to this RFP.

❑yes ❑no b. Includes a description of the bidder's (and subcontractor's if applicable) facilities, equipment, and technical capacity, including a description of all software and hardware (if applicable) that will be used in the performance of the work described.

❑yes ❑no c. Describes the bidder's (and subcontractor's if applicable) prior experience in conducting projects of similar nature and scope including length of experience and the dates of such work.

❑yes ❑no ❑N/A d. Describes the subcontractor's capacity and ability to perform the portion of work in which the subcontractor will be involved (if applicable).

❑yes ❑no e. Describes the subcontractor's ability to conduct the study without bias or pre-conceived opinions in determining the outcome of this study.

Requirements for Subcontractor(s)

10. As specified in Section 5.4.F, the Technical Proposal contains a Subcontractor(s) section. This bidder's proposal:

❑yes ❑no ❑N/A a. Includes a short description of the proposed work for each subcontractor.

❑yes ❑no ❑N/A b. Includes letters of agreement from all proposed subcontractors.

Required Attachments

11. The required forms have been completed as specified in Section 5.4.G and have been submitted with each copy of the Technical Proposal:

❑yes ❑no a. Small Business Preference Sheet (Attachment 1).

b. DVBE Participation Goals must have all of the following:

❑yes ❑no 1. Completed GSPD-05-105 (available on-line as stated in Section 5.4.G).

❑yes ❑no ❑N/A 2. Commitment letter from each participating DVBE.

❑yes ❑no ❑N/A 3. Certification letter from OSDS or a print out from the OSDS website for each participating DVBE.

❑yes ❑no 4. Approval from the CDE Contracts Office for compliance with DVBE participation goals.

❑yes ❑no c. Payee Data Record (STD. 204) (available on-line as stated in Section 5.4.G).

❑yes ❑no d. Darfur Contracting Act Certification (Attachment 5)

❑yes ❑no e. Federal Certifications (Attachment 4) (if applicable)

❑yes ❑no ❑N/A f. Certification of Good Standing issued by the California Secretary of State, if applicable (see Section 4.1). If the business entity is not required to register with the Secretary of State, provide evidence of license(s) required to do business in California or, in a separate paragraph in the cover letter, clearly state the contractor's legal status and evidence that it is legally constituted and qualified to do business in the State of California.

❑yes ❑no g. Contract Certification, CCC-307 (available on-line as stated in Section 5.4.G).

Step I, Part 2 – Technical Evaluation

A review panel will be convened to evaluate the proposals using a consensus process. All the proposal sections, except the table of contents and required attachments, will be evaluated by this review panel. The total proposal score must be equal to or greater than 135 of 150 possible points to continue to Step II, the public opening of the envelope containing the cost information (Bid Opening). The following are guiding questions to be used by the review panel in the evaluation of the technical proposals. The bidder's proposal will be rated against all the requirements for each task and is not limited by the guiding questions.

Section 3.1, Task 1—Comprehensive Plan and Schedule for Project Deliverables, Meetings and Activities, and CDE Approval Schedule

When evaluating the bidder's Technical Proposal for this section, please consider carefully the following questions and the information requirements contained in **Section 3.1, Task 1** (and related subsections) of this RFP before assigning the consensus score. Failure of the bidder to meet any of the stated requirements in a task may, at the discretion of the technical review panel, result in zero points for that task.

- How well does the bidder describe each activity set forth in Section 3.1, including proposed task initiation and completion dates, level of effort, and a narrative schedule outlining chronologically each activity (e.g., deliverables)?
- How well does the bidder demonstrate procedures for identification of significant operational problems needing corrective action, and providing recommended solutions and a timeline for correction of any identified problems?
- How well does the bidder demonstrate it will provide timely and accurate communication, including quarterly meetings with the CDE and monthly progress reports?
- How well does the bidder demonstrate ability to adhere to the CDE Approval Schedule for project deliverables?

Consensus score: _____ out of 20 points possible

Section 5.4.D (Management and Staffing), Task 1—Comprehensive Plan and Schedule for Project Deliverables and Activities

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **Sections 3.1 and 5.4.D** before assigning the consensus score.

- To what extent does the proposed project staff have the organization, management capability and competency, and related experience to perform Task 1?
- To what extent does the proposed project staff have the fiscal and personnel resources (e.g., hours) to perform Task 1?
- To what extent does the proposed project staff possess professional qualifications and experience to carry out Task 1 of this project?

Consensus score: _____ out of 5 points possible

Section 5.4.E (Related Capacity and Experience), Task 1—Comprehensive Plan and Schedule for Project Deliverables and Activities

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **Sections 3.1 and 5.4.E** before assigning the consensus score.

- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, have the facilities, technical capacity, and experience to perform the work required by Task 1?
- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, possess sufficient professional qualifications and experience for Task 1?
- How well do the bidder and the bidder's proposed subcontractor(s), if any, demonstrate the ability to conduct the study(ies) without bias or preconceived opinions in determining the outcome of the study(ies)?

Consensus score: _____ out of 10 points possible

Section 3.2, Task 2—Detailed Evaluation Design and Analysis Plan

When evaluating the bidder's Technical Proposal for this section, please consider carefully the following questions and the information requirements contained in **Section 3.2, Task 2** (and related subsections) of this RFP before assigning the consensus score. Failure of the bidder to meet any of the stated requirements in a task may, at the discretion of the technical review panel, result in zero points for that task.

- How well does the bidder describe evaluation and confidentiality procedures?
- How well does the bidder demonstrate understanding and adherence to FERPA requirements?
- How well does the bidder address research design, data collection, and statistical methodology?
- To what extent does the bidder identify potential confounding variables and methodological issues, including a discussion of how these potential problems will be controlled?
- To what extent does the bidder demonstrate an understanding of issues related to population subgroups?
- To what extent does the bidder describe the analytical procedures to answer specific evaluative questions while adhering to professional standards?
- How well does the bidder describe procedures that will ensure only appropriate personnel will have access to electronic files and data?

Consensus score: _____ out of 30 points possible

Section 5.4.D (Management and Staffing), Task 2—Detailed Evaluation Design and Analysis Plan

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **Sections 3.2 and 5.4.D** before assigning the consensus score.

- To what extent does the proposed project staff have the organization, management capability and competency, and related experience to perform Task 2?
- To what extent does the proposed project staff have the fiscal and personnel resources (e.g. hours) to perform Task 2?
- To what extent does the proposed project staff possess professional qualifications and experience to carry out the Task 2?

Consensus score: _____ out of 5 points possible

Section 5.4.E (Related Capacity and Experience), Task 2—Detailed Evaluation Design and Analysis Plan

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **Sections 3.2 and 5.4.E** before assigning the consensus score.

- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, have the facilities, technical capacity, and experience to perform the work required by Task 2?
- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, possess sufficient professional qualifications and experience for Task 2?
- How well do the bidder and the bidder's proposed subcontractor(s), if any, demonstrate the ability to conduct the study without bias or preconceived opinions in determining the outcome of this study for Task 2?

Consensus score: _____ out of 5 points possible

Section 3.3, Task 3—PCSGP Program Evaluation Procedures

When evaluating the bidder's Technical Proposal for this section, please consider carefully the following questions and the information requirements contained in **Section 3.3, Task 3** (and related subsections) of this RFP before assigning the consensus score. Failure of the bidder to meet any of the stated requirements in a task may, at the discretion of the technical review panel, result in zero points for that task.

- How well does the bidder demonstrate the ability to evaluate planning and implementation of new charter schools?
- How well does the bidder demonstrate the ability to evaluate the dissemination of promising practices from high-quality charter schools?
- How well does the bidder demonstrate the ability to evaluate the impact of partnering with a Dissemination Grant recipient school on public charter and non-charter schools?
- How well does the bidder describe the procedures that will be used to conduct the program evaluations and prepare the specified reports?
- How well does the bidder address the four objectives included in this section?
- How well does the bidder incorporate the specific questions for each objective into the evaluation procedures?
- To what extent does the bidder identify available data sources, their strengths and limitations, including clear descriptions of and rationales for data collection procedures and measures to be used?
- To what extent do the program evaluation procedures described by the bidder adhere to professional standards?
- To what extent does the bidder describe the timing, coordination, and evaluations necessary to perform the required analyses and produce the specified reports?

Consensus score: _____ out of 30 points possible

Section 5.4.D (Management and Staffing), Task 3—PCSGP Program Evaluation Procedures

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **Sections 3.3 and 5.4.D** before assigning the consensus score.

- To what extent does the proposed project staff have the organization, management capability and competency, and related experience to perform Task 3?
- To what extent does the proposed project staff have the fiscal and personnel resources (e.g. hours) to perform Task 3?
- To what extent does the proposed project staff possess professional qualifications and experience to carry out Task 3?

Consensus score: _____ out of 5 points possible

Section 5.4.E (Related Capacity and Experience), Task 3—PCSGP Program Evaluation Procedures

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **Sections 3.3 and 5.4.E** before assigning the consensus score.

- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, have the facilities, technical capacity, and experience to perform the work required by Task 3?
- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, possess sufficient professional qualifications and experience for Task 3?
- How well do the bidder and the bidder's proposed subcontractor(s), if any, demonstrate the ability to conduct the study without bias or preconceived opinions in determining the outcome of this study for Task 3?

Consensus score: _____ out of 5 points possible

Section 3.4, Task 4—Evaluation Reports and Data Files

When evaluating the bidder's Technical Proposal for this section, please consider carefully the following questions and the information requirement contained in **Section 3.4, Task 4** (and related subsections) of this RFP before assigning the consensus score. Failure of the bidder to meet any of the stated requirements in a task may, at the discretion of the technical review panel, result in zero points for that task.

- How well does the bidder demonstrate ability to prepare and provide deliverables (e.g., reports) to the CDE and other pertinent audiences?
- How well does the bidder describe procedures that will be used to gather information on pupil achievement?
- How well does the bidder describe procedures that will be used to perform the analyses required for the creation of annual reports (RFP, sections 3.4.B and 3.4.C)?
- How well does the bidder demonstrate the ability to perform the required analyses for pupil subgroups (RFP, Section 3.4.D)?
- How well does the bidder demonstrate the ability to fulfill requirements for generating aggregate data files from multiple data sources?
- How well does the bidder demonstrate the ability to generate and deliver the required evaluation reports, including electronic and paper copies?
- How well does the bidder acknowledge adherence to the CDE Style Guidelines, Correspondence Guide, and Web posting requirements?

Consensus score: _____ out of 25 points possible

Section 5.4.D (Management and Staffing), Task 4—Evaluation Reports and Data Files

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **sections 3.4 and 5.4.D** before assigning the consensus score.

- To what extent does the proposed project staff have the organization, management capability and competency, and related experience to perform Task 4?
- To what extent does the proposed project staff have the fiscal and personnel resources (e.g., hours) to perform Task 4?
- To what extent does the proposed project staff possess professional qualifications and experience to carry out Task 4?

Consensus score: _____ out of 5 points possible

Section 5.4.E (Related Capacity and Experience), Task 4—Evaluation Reports and Data Files

When evaluating the bidder's proposal for this section, please consider carefully the following questions and the information requirements contained in **sections 3.4 and 5.4.E** before assigning the consensus score.

- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, have the facilities, technical capacity, and experience to perform the work required by Task 4?
- To what extent do the bidder and the bidder's proposed subcontractor(s), if any, possess sufficient professional qualifications and experience for Task 4?
- How well do the bidder and the bidder's proposed subcontractor(s), if any, demonstrate the ability to conduct the study without bias or preconceived opinions in determining the outcome of this study for Task 4?

Consensus score: _____ out of 5 points possible

Final Score Sheet (The following sheet will be used to tally the proposal scores.)

Bidder Name: _____

RFP Section/Task	**Possible Points**	**Consensus Score**
Section 3.1 (Task 1) – Comprehensive Plan and Schedule for Project Deliverables, Meetings and Activities, and CDE Approval Schedule	20	
Section 3.2 (Task 2) – Detailed Evaluation Design and Analysis Plan	30	
Section 3.3 (Task 3) – PCSGP Program Evaluation Procedures	30	
Section 3.4 (Task 4) – Evaluation Reports and Data Files	25	
Section 5.4.D (Task 1) – Management and Staffing	5	
Section 5.4.E (Task 1) – Related Capacity and Experience	10	
Section 5.4.D (Task 2) – Management and Staffing	5	
Section 5.4.E (Task 2) – Related Capacity and Experience	5	
Section 5.4.D (Task 3) – Management and Staffing	5	
Section 5.4.E (Task 3) – Related Capacity and Experience	5	
Section 5.4.D (Task 4) – Management and Staffing	5	
Section 5.4.E (Task 4) – Related Capacity and Experience	5	
	150	

The total proposal score must be equal to or greater than 135 of 150 possible points to continue to Step II.

Cost Proposal Evaluation

The total proposal score must be equal to or greater than 135 of the 150 possible points to continue to Step II (public opening of the envelope containing the cost information in the Bid Opening).

Step II —Adherence to Cost Proposal Requirements

This step is rated on a yes or no basis. Receipt of a "no" on any of the following may result in elimination of the proposal from further consideration and review. The California Department of Education (CDE) reserves the right, at its sole discretion, to overlook, correct, or require a bidder to remedy any obvious clerical or mathematical errors on a proposal, if the correction does not result in an increase in the bidders' total price.

❑yes ❑no 1. One clearly marked ORIGINAL Cost Proposal and six copies submitted in a separate, sealed envelope or package and received no later than noon PT on November 4, 2011, at the CDE, as specified in RFP Section 5.1.

2. As specified in RFP Section 5.5, the original of the Cost Proposal must contain or specify at a minimum the following:

❑yes ❑no a. Cover Sheet: The first page of the Cost Proposal is a Cover Sheet. The Cover Sheet indicates the TOTAL amount for the overall contract without any cost breakdowns.

❑yes ❑no b. Summary of all Costs by Fiscal Year and Task.

❑yes ❑no c. Rates: Proposal provides a clear computation of all costs, including operating expenses and indirect cost detail, if applicable. Staffing titles and/or names in Technical Proposal correspond to Cost Proposal. Travel rates do not exceed those established for the CDE's non-represented employees.

❑yes ❑no ❑N/A d. Summary of Subcontractor Costs: The Cost Proposal contains a section that summarizes, by task for each fiscal year, each subcontractor's costs Subcontractor costs include, but are not limited to, DVBE subcontractor costs.

❑yes ❑no e. Task Detail: The Cost Proposal contains a section that, in detail, breaks down all costs associated with each task set forth in Section 3.0 for each fiscal year.

❑yes ❑no f. Labor Cost Detail: Includes hourly billing rates for all personnel (including DVBE) and the total number of hours projected for this project, and labor hours coincide with the labor hours contained in the Management and Staffing section of the Technical Proposal.

❑yes ❑no ❑N/A 3. The bidder has included the estimated salaries to be paid to personnel in future years based on placement on salary schedules, and the salary schedules are included as a part of the Cost Proposal.

❑yes ❑no 4. The CDE Contracts Office has determined the Cost Proposal meets the criteria specified in RFP Section 5.5.

Annotated List of California Department of Education Data Sources

California Longitudinal Pupil Achievement Data System

Once California Longitudinal Pupil Achievement Data System (CALPADS) is developed, this database will allow for tracking a student's academic performance over time to comply with federal reporting requirements and help evaluate educational progress and investments.

California School Information Services (CSIS). CSIS is a system that provides a Statewide Student Identifier (SSID) for an individual student. The required elements are: student's legal name, gender, birth date, primary language, and ethnicity. Recommended elements are student's birth city, state and country. Control elements for Student Identifier Assignment are local educational agency (LEA) County-District-School (CDS) numbers, local student identifier and enrollment data.

The SSID will be uniquely distinguishable from that of other students and to be consistently identified over their entire kindergarten through grade twelve (K–12) academic career. The SSID is a ten digit, random numeric value that is intended to be stored at the student's district so that it may be associated with that student. The SSID is not personally identifiable back to an individual student. Additional information about SSID can be found on the CSIS Web page at http://www.cde.ca.gov/ds/sd/cs/.

DataQuest

DataQuest is a dynamic system that provides reports for accountability (e.g., API, AYP), test data, enrollment, graduates, dropouts, course enrollments, staffing, and data regarding English learners. DataQuest reporting levels include: state, county, district, school, and other choices. Additional information about DataQuest can be found on the CDE DataQuest Web site at http://dq.cde.ca.gov/dataquest/.

California Special Education Management Information System

California Special Education Management Information System (CASEMIS) is an information reporting and retrieval system in special education, developed by the CDE, Special Education Division. The system has been designed to assist the LEAs, special education local plan areas, county offices of education, school districts, and the state-operated programs for the disabled that submit student level data to the CDE.

California Basic Educational Data System

California Basic Educational Data System (CBEDS) is an annual collection of basic student and staff data, which includes, but is not limited to, information about student enrollment, graduation and drop-out rates, course enrollment, enrollment in alternative education, gifted and talented education, etc. Additional information about CBEDS can be found on the CDE CBEDS Web page at http://www.cde.ca.gov/ds/sd/cb/.

CAL-ED Data

Cal-Ed provides fiscal, demographic, and performance data on California's K–12 schools. Additional information about CAL-ED can be found on the Cal-Ed Web page at http://www.ed-data.k12.ca.us/welcome.asp (Outside Source).

Public Charter Schools Grant Program Request for Applications, 2010–2015

The Public Charter Schools Grant Program Request for Applications, 2010–2015 (PCSGP RFA) includes information related to eligibility and the procedures for applying for a PCSGP grant. The PCSGP RFA and application are available on the CDE Web site at http://www.cde.ca.gov/fg/fo/r1/pcsgp10rfa.asp.

Note: The Public Charter Schools Grant Program Request for Dissemination Grant Applications, 2012–2015 (PCSGP Dissemination Grant RFA) is expected to be available during July 2012.

Small Business (SB) Preference Sheet

NOTICE TO ALL BIDDERS:

Small Business and Non-Small Business Subcontractor Preferences

a. Small businesses will be granted the five percent (5%) small business preference on a bid evaluation by an awarding department when a responsible non-small business has submitted the lowest-priced, responsive bid or a bid that has been ranked as the highest scored bid pursuant to a solicitation evaluation method described in Section 1896.8, and when the small business:
    1. Has included in its bid a notification to the awarding department that it is a small business or that it has submitted to the Department a complete application pursuant to Section 1896.14 no later than 5:00 p.m. on the bid due date, and is subsequently certified by the Department as a small business; and
    2. Has submitted a timely, responsive bid; and
    3. Is determined to be a responsible bidder.
b. Non-small business bidders will be granted a five percent (5%) non-small business subcontractor preference on a bid evaluation by an awarding department when a responsible non-small business has submitted the lowest-priced responsive bid or a bid that has been ranked as the highest scored bid pursuant to a solicitation evaluation method described in Section1896.8, and when the non-small business bidder:
    1. Has included in its bid a notification to the awarding department that it commits to subcontract at least twenty-five percent (25%) of its net bid price with one or more small business(es); and
    2. Has submitted a timely, responsive bid; and
    3. Is determined to be a responsible bidder; and
    4. Submits a list of the small business(es) it commits to subcontract with for a commercially useful function in the performance of the contract. The list of subcontractors shall include their name, address, phone number, a description of the work to be performed, and the dollar amount or percentage (as specified in the solicitation) per subcontractor.

Are you a California certified small business? ☐ YES ☐ NO

Are you a non-SB subcontracting at least 25% to a California certified SB? ☐ YES ☐ NO

Company Name:

Signature: _____ Date:

A copy of the SB certification letter from OSDS or any proof of certification from the State of California, including an e-mail or a Web site print out must be included.

If you have applied and not yet been formally certified, include the date of application.
Date applied (if not yet certified):

PROTEST PROCEDURES FOR REQUEST FOR PROPOSAL

A. Notification

1. Contracts awarded under the provisions of a procedure utilizing a Request for Proposal (See *Public Contract Code* Section 10344) shall be awarded only after a notice of the proposed award has been posted in the offices of the contracting agency for five working days.

2. If prior to the award any bidder files a protest with the Department of General Services (DGS) against the awarding of the contract, the contract shall not be awarded until either the protest has been withdrawn or the DGS has decided the matter.

Department of General Services
Office of Legal Services
Attn: Protest Coordinator
707 Third Street, 7th Floor
West Sacramento, CA 95605
Fax: 916-376-5088

3. Within five days after filing the protest, the protesting bidder shall file with the DGS a full and complete written statement specifying the grounds for the protest.

B. Grounds for Protest

The agency failed to follow the procedures specified in the Request for Proposals or the *Public Contract Code.*

C. Procedures:

1. Following receipt of a protest filed as prescribed, the DGS shall determine whether the protest is to be resolved by written submission of material or by public hearing. (See Title 2, *California Code of Regulations*, Section 1195, et seq.)

2. Hearing Procedures

   a. A hearing shall be conducted by the Director of the DGS or by a designated representative pursuant to the applicable statutes and regulations.

   b. The DGS arranges for all hearings to be recorded by a hearing reporter. Any interested party may arrange with the reporter to have a transcript prepared at his or her own cost.

   c. All of the costs of the proceedings are charged to the State agency involved.

CALIFORNIA DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PROGRAM REQUIREMENTS – FOR NON-IT SERVICES ONLY

(Revised September 2009)

Please read the requirements and instructions carefully before you begin.

AUTHORITY. The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for State contracts is established in Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.60 et seq. **Recent legislation has modified the program significantly in that a bidder may no longer demonstrate compliance with program requirements by performing a "good faith effort" (GFE).**

The minimum DVBE participation percentage (goal) is 3 percent for this solicitation unless another percentage is specified in the solicitation. A DVBE incentive will be given to bidders who provide DVBE participation, unless stated elsewhere in the solicitation that the DVBE incentive has been waived.

INTRODUCTION. The bidder must complete the identified form to comply with this solicitation's DVBE program requirements. **Bids or proposals (hereafter called "bids") that fail to submit the required form and fully document and meet the DVBE program requirement shall be considered non-responsive**.

Information submitted by the intended awardee to comply with this solicitation's DVBE requirements will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of the PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by the 2 CCR §1896.80. Contractors found to be in violation of certain provisions may be subject to loss of certification, penalties and/or contract termination.

Only State of California, Office of Small Business and DVBE Services (OSDS), certified DVBEs (hereafter called "DVBE") who perform a commercially useful function relevant to this solicitation, may be used to satisfy the DVBE program requirements. The criteria and definition for performing a commercially useful function are contained herein on the page entitled **Resources & Information**. Bidders are to verify each DVBE subcontractor's certification with OSDS to ensure DVBE eligibility.

PLEASE READ ALL INSTRUCTIONS CAREFULLY. These instructions contain information about the DVBE program requirements, bidder responsibilities, and the DVBE Bid Incentive. Bidders are responsible for thorough review and compliance with these instructions.

To meet the DVBE program requirements, bidders must complete and fully document compliance with the following:

Commitment to full DVBE participation - For a bidder who is a DVBE or who is able to meet the commitment to use identified certified DVBE(s) to fulfill the full DVBE participation goal.

COMMITMENT -- Commit to meet or exceed the DVBE participation requirement in this solicitation by either Method A1 (bidder is a California certified DVBE) or A2 (bidder is not a California certified DVBE). Bidders must document DVBE participation commitment by completing and submitting the Bidder Declaration (GSPD-05-105) located elsewhere within the solicitation document. Failure to complete and submit the required form as instructed shall render the bid non-responsive.

At the State's option prior to award of the contract, a written confirmation from each DVBE subcontractor identified on the Bidder Declaration must be provided. As directed by the State, the written confirmation must be signed by the bidder and/or the DVBE subcontractor(s). The written confirmation may request

information that includes but is not limited to the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, and total amount to be paid to the DVBE. If further verification is necessary, the State will obtain additional information to verify compliance with the above requirements.

Method A1. Certified DVBE bidder:

a. Commit to performing at least 3 percent of the contract bid amount (unless otherwise specified) with the prime bidder's firm or in combination with another DVBE(s).

b. Document DVBE participation on the Bidder Declaration GSPD-05-105.

c. At the State's option a DVBE bidder working in combination with other DVBEs shall submit proof of its commitment by submitting a written confirmation from the DVBE(s) identified as a subcontractor on the Bidder Declaration. When requested, the document must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written confirmation as specified may be grounds for bid rejection.

Method A2. Non-DVBE bidder:

a. Commit to using certified DVBE(s) for at least 3 percent (unless otherwise specified) of the bid amount.

b. Document DVBE participation on the Bidder Declaration GSPD-05-105.

c. At the State's option prior to contract award, a bidder shall submit proof of its commitment by submitting a written confirmation from each DVBE identified as a subcontractor on the Bidder Declaration GSPD-05-105. The awarding department contracting official named in the solicitation may contact each listed DVBE, by mail, fax or telephone, for verification of the bidder's submitted DVBE information. When requested, the document must be submitted to the address or facsimile number specified and within the timeframe identified in the notification. Failure to submit the written confirmation as specified may be grounds for bid rejection.

THE FOLLOWING MAY BE USED TO LOCATE DVBE SUPPLIERS:

Awarding Department

Contact the department's contracting official named in this solicitation for any DVBE suppliers who may have identified themselves as potential subcontractors, and to obtain suggestions for search criteria to possibly identify DVBE suppliers for the solicitation. You may also contact the department's SB/DVBE Advocate for assistance.

Other State and Federal Agencies, and Local Organizations

STATE: Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD), online certified firm database at www.eprocure.dgs.ca.gov To begin your search, click on "SB/DVBE Search." Search by "Keywords" or "United Nations Standard Products and Services Codes (UNSPSC) that apply to the elements of work you want to subcontract to a DVBE. Check for subcontractor ads that may be placed on the California State Contracts Register (CSCR) for this solicitation prior to the closing date. You may access the CSCR at: www.eprocure.dgs.ca.gov. For questions regarding the online certified firm database and the CSCR, please call the OSDS at 916-375-4940 or send an e-mail to: OSDCHelp@dgs.ca.gov.

FEDERAL: Search the U.S. Small Business Administration's (SBA) Central Contractor Registration (CCR) on-line database at www.ccr.gov/ to identify potential DVBEs and click on the "Dynamic Small Business Search" button. Search options and information are provided on

the CCR Dynamic Small Business Search site. First time users should click on the "help" button for detailed instructions. Remember to verify each firm's status as a California certified DVBE.

LOCAL: Contact local DVBE organization to identify DVBEs. For a list of local organizations, go to http://www.pd.dgs.ca.gov/smbus (Outside Source) and select**:** DVBE Local Contacts (New 02/09) (pdf).

DVBE BID INCENTIVE. Unless stated elsewhere in the solicitation that the DVBE incentive has been waived, in accordance with Section 999.5(a) of the Military and Veterans Code an incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply an incentive to bids that propose California certified DVBE participation as identified on the Bidder Declaration GSPD-05-105 and confirmed by the State. The incentive amount for awards based on low price will vary in conjunction with the percentage of DVBE participation. Unless a table that replaces the one below has been expressly established elsewhere within the solicitation, the following percentages will apply for awards based on low price.

Confirmed DVBE Participation of:	DVBE Incentive:
5% or Over	5%
4% to 4.99% inclusive	4%
3% to 3.99% inclusive	3%

As applicable: (1) Awards based on low price - the net bid price of responsive bids will be reduced (for evaluation purposes only) by the amount of DVBE incentive as applied to the lowest responsive net bid price. If the #1 ranked responsive, responsible bid is a California certified small business, the only bidders eligible for the incentive will be California certified small businesses. The incentive adjustment for awards based on low price cannot exceed 5% or $100,000, whichever is less, of the #1 ranked net bid price. When used in combination with a preference adjustment, the cumulative adjustment amount cannot exceed $100,000.

(2) Awards based on highest score - the solicitation shall include an individual requirement that identifies incentive points for DVBE participation.

A DVBE Business Utilization Plan (BUP) does not qualify a firm for a DVBE incentive. Bidders with a BUP, must submit a Bidders Declaration (GSPD-05-105) to confirm the DVBE participation for an element of work on this solicitation in order to claim a DVBE incentive(s).

RESOURCES AND INFORMATION

For questions regarding bid documentation requirements, **contact the contracting official at the awarding department for this solicitation.** For a directory of SB/DVBE Advocates for each department go to: http://www.pd.dgs.ca.gov/smbus/advocate.htm (Outside Source).

The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidders in locating DVBEs for a fee. To obtain this list, please go to http://www.pd.dgs.ca.gov/smbus (Outside Source) and select:

- DVBE Trade Paper Listing (New 02/09) (pdf)
- DVBE Focus Paper Listing (New 02/09) (pdf)

U.S. Small Business Administration (SBA):	**FOR:**
Use the Central Contractor Registration (CCR) on-line database.	Service-Disabled Veteran-owned businesses in California (Remember to verify each DVBE's

Internet contact only –Database: www.ccr.gov/.	California certification.)
Local Organizations: Go to http://www.pd.dgs.ca.gov/smbus (Outside Source) and select: DVBE Local Contacts (New 02/09) (pdf)	**FOR:** List of potential DVBE subcontractors
DGS-PD **EProcurement** Website: www.eprocure.dgs.ca.gov Phone: (916)375-2000 Email: eprocure@dgs.ca.gov	**FOR:** • SB/DVBE Search • CSCR Ads • Click on Training tab to Access eProcurement Training Modules including: Small Business (SB)/DVBE Search
Office of Small Business and DVBE Services (OSD 707 Third Street, Room 1-400, West Sacramento, CA 95605 Website: http://www.pd.dgs.ca.gov/smbus OSDS Receptionist, 8 am-5 pm: (916) 375-4940 PD Receptionist, 8 am-5 pm: (800) 559-5529 Fax: (916) 375-4950 Email: osdchelp@dgs.ca.gov	**FOR:** • Directory of California-Certified DVBEs • Certification Applications • Certification Information • Certification Status, Concerns • General DVBE Program Info. • DVBE Business Utilization Plan • Small Business/DVBE Advocates

Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of §1896.61(f); is certified in accordance with §1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function.

As defined in MVC §999, a person or an entity is deemed to perform a "commercially useful function" if a person or entity does **all** of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out the obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and functions.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

DVBE Program Requirements Checklist:

- ✓ Commit to using certified DVBE(s) for at least 3 percent (unless otherwise specified of the bid amount.
- ✓ Document DVBE participation on the Bidder Declaration GSPD-05-105.
- ✓ Written confirmation from each DVBE identified as a subcontractor on the GSPD-05-105.

California Department of Education
Fiscal and Administrative Services Division
CO-007 (REV. 08/2008)

Federal Certifications

Certifications regarding lobbying, debarment, suspension and other responsibility matters; and drug-free workplace requirements

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82 "New restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non procurement) and Government-wide requirements for Drug-Free Workplace (Grants)." The Certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000 as defined at 34 CFR Part 82, Section 82.105 and 82.110, the applicant certifies that:

(a) No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement:

(b) If any funds other than federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an employee of Congress, or any employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form –LLL, "Disclosure Form to Report Lobbying," in accordance with this instruction;

(c) The undersigned shall require the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

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2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by executive Order 12549, Debarment and Suspension, and other responsibilities implemented at 34 CFR Part 85, for prospective participants in primary or substantive control over a covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110-

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency:

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period proceeding this application had one or more public transactions (federal, state, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

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3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1998, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Section 85.605 and 85.610-

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

(b) Establishing an on-going drug-free awareness program to inform employees about-

(1) The danger of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph

(a) that as a condition of employment under the grant, the employee will-

(1) Abide by the terms of the statement; and
(2) Notify the employer in writing of his or her conviction for a violation; (e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants, and Contracts Service, U.S. Department of Education 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No.3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement, or other appropriate agency:

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check [ ] if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610

a. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant, and

b. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No.3) Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	AWARD#/CONTRACT #/PROJECT #
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Darfur Contracting Act Certification

Public Contract Code Sections 10475 -10481 applies to any company that currently or within the previous three years has had business activities or other operations outside of the United States. For such a company to bid on or submit a proposal for a State of California contract, the company must certify that it is either a) not a scrutinized company; or b) a scrutinized company that has been granted permission by the Department of General Services to submit a proposal.

If your company has not, within the previous three years, had any business activities or other operations outside of the United States, you do **not** need to complete this form.

However, if this form is not completed, the CO-009 Supplemental form must be completed and submitted with your bid or proposal.

OPTION #1 - CERTIFICATION
If your company, within the previous three years, has had business activities or other operations outside of the United States, in order to be eligible to submit a bid or proposal, please insert your company name and Federal ID Number and complete the certification below.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that a) the prospective proposer/bidder named below is **not** a scrutinized company per Public Contract Code 10476; and b) I am duly authorized to legally bind the prospective proposer/bidder named below. This certification is made under the laws of the State of California.

Company/Vendor Name (Printed)	*Federal ID Number*
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date Executed	*Executed in the County and State of*

OPTION #2 – WRITTEN PERMISSION FROM DGS
Pursuant to Public Contract Code section 10477(b), the Director of the Department of General Services may permit a scrutinized company, on a case-by-case basis, to bid on or submit a proposal for a contract with a state agency for goods or services, if it is in the best interests of the state. If you are a scrutinized company that has obtained written permission from the DGS to submit a bid or proposal, complete the information below.

We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

Company/Vendor Name (Printed)	*Federal ID Number*
Initials of Submitter	
Printed Name and Title of Person Initialing	

Darfur Contracting Act Certification
Supplemental

I acknowledge that I have read the Darfur Contracting Act Certification/CO-009 form and my company has not, within the previous three years, had any business activities or other operations outside of the United States.

Company/Vendor Name (Printed)	*Federal ID Number*
By (Authorized Signature)	
Printed Name and Title of Person Signing	
Date Executed	*Executed in the County and State of*

CONFLICT OF INTEREST AND CONFIDENTIALITY STATEMENT
PCSGP Evaluation Contract

I certify that **[insert name of organization]** has no personal or financial interests and no present employment or activity which would be incompatible with this organization's participation in any activity related to the RFP or execution of the awarded Public Charter Schools Grant Program, 2010 – 2015, (PCSGP) Evaluation Contract. For the duration of this organization's involvement in the PCSGP Evaluation Contract, this organization agrees not to accept any gift, benefit, gratuity or consideration, or begin a personal or financial interest in a party who is bidding and/or proposing, or associated with a bidder and/or proposer on the PCSGP Evaluation Contract.

I certify that this organization will keep all PCSGP Evaluation Contract information confidential and secure. This organization will not copy, give or otherwise disclose such information to any other person unless the California Department of Education has on file a confidentiality agreement signed by the other person, and the disclosure is authorized and necessary to the PCSGP Evaluation Contract. I understand that the information to be kept confidential includes, but is not limited to, specifications, administrative requirements, and student data and includes written or electronic materials. I understand that if this organization leaves this PCSGP Evaluation Contract before it ends, this organization must still keep all Contract information confidential. I agree to follow any instructions provided by the PCSGP Evaluation Contract relating to the confidentiality of the PCSGP Evaluation Contract information.

I fully understand that any unauthorized disclosure made by this organization may be a basis for civil or criminal penalties and/or disciplinary action (including dismissal for State employees). I agree to advise the Contract Monitor, at 916-327-1824, immediately in the event that I or another person within this organization either learn or have reason to believe that any person who has access to the PCSGP Evaluation Contract confidential information has or intends to disclose that information in violation of this agreement.

Company Name: [insert company name]
Authorized Representative: [insert authorized representative]
Phone Number: [insert phone number]
Fax Number: [insert fax number]
E-mail Address: [insert fax number]

Signature _____ Date [insert date]
This information is subject to verification by the State of California. If the State finds a misrepresentation, the bid may be automatically disqualified from the procurement process or the contract may be canceled.

Return this Conflict of Interest and Confidentiality Statement, as a condition of receipt of this contract, to:

Public Charter Schools Grant Program
Charter Schools Division
California Department of Education
1430 N Street, Suite 5401
Sacramento, CA 95814
Fax: 916-322-1465

CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This **Confidentiality and Non-Disclosure Agreement** certifies that all employees of the company identified below will apply confidentiality measures in compliance with the practices or procedures mandated by the California Department of General Services and/or the California Department of Education regarding public information. All confidential information will remain the exclusive property of the California Department of Education. All requests from entities other than those related to the PCSGP Evaluation contract must be approved by the California Department of Education Contract Monitor.

On behalf of below company, I fully understand that disclosure of confidential information may be cause for civil penalties.

Company Name: [insert company name]

Authorized Representative: [insert authorized representative]

Phone Number: [insert phone number] Fax Number: [insert fax number]

E-mail Address:

_____ _____

Signature Date

Print Name and Title:

This information is subject to verification by the State of California. If the State finds a misrepresentation, the bid may be automatically disqualified from the procurement process or the contract may be canceled.

CALIFORNIA DEPARTMENT OF EDUCATION COMPUTER SECURITY POLICY
PCSGP Evaluation

This policy applies to employees, contractors, consultants, temporaries, and other workers at the California Department of Education (CDE), including all personnel affiliated with third parties. This policy applies to all equipment that is owned or leased by employees, contractors, consultants, and temporaries, including all personnel affiliated with third parties.

In order to secure CDE information technology (IT) resources and mitigate security vulnerabilities, all users shall use CDE IT resources responsibly and adhere to the following requirements:

1. Install antivirus software and ensure that virus definition (DAT) files are, and remain, up to date.
2. Apply vendor-supplied patches/fixes necessary to repair security vulnerabilities.
3. Do not share your computer or network account(s) password with anyone. This includes family and other household members when work is being done at home.
4. Read and comply with the California Department of Education Computer Use Policy.*

I have read and understand the California Department of Education Computer Security Policy.

Signature: _____ Date: [insert date here}
Print Name and Title: [print name and title here]

This information is subject to verification by the State of California. If the State finds a misrepresentation, the bid may be automatically disqualified from the procurement process or the contract may be canceled.

*The TSD-400 form will be supplied to the successful bidder.

This form must be kept on file by the bidder and made available to the California Department of Education, upon request, as a condition of receipt of the contract.

California State Travel Program

Travel and Per Diem Limitations – A summary of the State of California Short-term Travel Expense Reimbursement Program Administered by the Department of Personnel Administration

Rates, time frames, and requirements are applicable to all contractors and subcontractors. Additional details applicable to the travel reimbursement program may be found in the *California Code of Regulations*, Title 2, Division 1, Chapter 3, Article 2 (requirements applicable to excluded employees).

Conditions of Travel
Reimbursement shall not be made for meal and lodging expenses incurred within 50 miles of home or headquarters. CDE may approve meals and/or lodging for employees *on travel status* away from, but within 50 miles of home or headquarters. Delegation does not extend to the approval of meals or lodging at either the home or headquarters location.

Lodging Reimbursement Rates – In-State
Applicable when state business requires an overnight stay and the employee uses a good, moderately priced commercial lodging establishment (hotel, motel, bed and breakfast, or public campground) that caters to the short-term traveler, and for day trips of less than 24 hours.

Lodging Reimbursement - (receipt required)

Statewide with the following exceptions	up to $84.00 + tax
Counties of Los Angeles and San Diego	up to $110.00 + tax
Alameda, San Francisco, San Mateo, and Santa Clara	up to $140.00 + tax

Note: Travelers who do not provide lodging receipts are eligible to claim meals/incidentals only as appropriate to the time frames of travel (see below for rates and time frames).

Mileage Reimbursement Rates
All privately owned vehicle mileage driven on State business is subject to advanced approval by the appointing authority. The rate claimed shall be considered full reimbursement for all costs related to the operation and maintenance of the vehicle, including both liability and comprehensive insurance.

Automobile **51cents per mile***

If dropped off and picked up at a common carrier and no parking expense is claimed, mileage to and from the common carrier may be claimed at the above appropriate rate times twice the number of miles you actually occupy the vehicle (pays for each round trip).

Meals and Incidentals- (each 24 hour period)

Breakfast:	**actual expense up to**	$6.00
Lunch:	**actual expense up to**	$10.00
Dinner:	**actual expense up to**	$18.00
Incidentals:	**actual expense up to**	$6.00

Note: **YOU** must retain all meal receipts for audit by the state or the IRS.

* Effective January 1, 2009

Timeframes
First Day (Trip of More Than 24 Hours):
Trip begins at or before 6 a.m.: may claim breakfast
Trip begins at or before 11 a.m.: may claim lunch
Trip begins at or before 5 p.m.: may claim dinner

Fractional Day (After 24 Hours of Travel):
Trip ends at or after 8 a.m.: may claim breakfast
Trip ends at or after 2 p.m.: may claim lunch
Trip ends at or after 7 p.m.: may claim dinner

Fractional Day (Trip of Less Than 24 Hours of Travel):
Trip must begin at or before 6 a.m. AND end at or after 9 a.m. in order to claim breakfast
Trip must begin at or before 4 p.m. AND end at or after 7 p.m. in order to claim dinner. No lunch or incidentals may be claimed. If there is no overnight stay, these meals are taxable.

Note: Full meals included in airfare, hotel and conference fees, or otherwise provided may not also be claimed for reimbursement. The same meal may not be claimed more than once on any date. Continental breakfast of rolls, coffee, and juice are not considered full meals.

Conferences/Conventions (Rooms that are contracted by the sponsors for the event)

- State sponsored:
  With receipt, up to $110.00 + tax
- Non-state sponsored:
  With receipt, up to the rate contracted for the event

Receipts/Miscellaneous:
Receipts are required for each item for expense for street car, ferry fares, bridge and road tolls, local transit, taxi, shuttle, or hotel bus, and parking over $10, business phone calls over $5.00, all gas for rental cars and all lodging, regardless of amount.

Keep all receipts. CDE may require submission of receipts with invoices. All business expenses are to be incurred as a result of conducting state business, and are subject to review/verification by the CDE.

Subcontractors are subject to the same rules and requirements if they are reimbursed for travel. Meals when the individual is not on travel status and refreshments or break service at meetings are not reimbursable.

Intent to Submit a Proposal for Public Charter Schools Grant Program, 2010–2015 Independent Evaluation

Return this Intent to Submit a Proposal form if you plan to submit a proposal for the Public Charter Schools Grant Program, 2010 – 2015 (PCSGP) Independent Evaluation. CDE shall only accept proposals for which it has received an Intent to Submit a Proposal. This Intent to Submit a Proposal must be received by mail, hand-delivery, e-mail, or fax no later than Friday, September 23, 2011, noon PT. Submit to:

Public Charter Schools Grant Program
Charter Schools Division
California Department of Education
1430 N Street, Room 5401
Sacramento, CA 95814
CHARTERS@cde.ca.gov
Fax: 916-322-1465,
(Please include Public Charter Schools Grant Program in the subject)

I/We intend to submit a proposal for a contract for the PCSGP Evaluation.

Name of Firm: [insert name of firm]

Individual Contact: [insert contact name]

Address: [insert street address, city, and zip code]

Phone: [555-555-5555] Fax : [555-555-5555]

E-mail address: [insert e-mail address]

_____

Signature of Firm's Representative Date

Title of Representative: [insert title of representative]

QUESTIONS

The purpose of this Intent to Submit a Proposal is to provide us with information to plan adequately for the review of proposals and to elicit from you questions that may be of concern to all bidders.

Questions, requests for clarification, concerns, and comments from applicants related to this Request for Proposal (RFP) must be prepared and submitted in writing, noting the page number(s) and section(s) from the RFP, and must be accompanied by the name, fax number, and e-mail address of the person to whom the responses are to be sent.

The CDE shall make every effort to answer all questions received. The written response will include a list of all the questions submitted. This response will be posted on the CDE Web site and will be e-mailed only to the parties that submitted an Intent to Submit a Proposal form; therefore, e-mail addresses must accompany written questions.

All questions must be received by Charter Schools Division Office, Attention: Public Charter Schools Grant Program, no later than noon PT, on Friday, September 23, 2011, at the contact information noted above.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 21

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Charter Renewal: Approve Commencement of Third 15-Day Public Comment Period for Proposed Changes to the *California Code of Regulations,* Title 5, sections 11966.5, and 11967.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a third 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the third 15-day public comment period, the proposed amendments with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and submit it to the Office of Administrative Law (OAL) for approval and provide an update of the status at the SBE's next regularly scheduled board meeting;
- If any relevant comments to the proposed changes are received during the third 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's September 2011 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its December 2001 meeting, the SBE approved regulations for the Criteria for the Review and Approval of Charter School Petitions by the SBE.

At its January 2010 meeting, the SBE engaged in a discussion to address its desire to have regulatory language that addressed both the renewal of charter schools and charter school appeals.

SUMMARY OF PREVIOUS (Cont.)

At its November 2010 meeting, the SBE approved the commencement of the rulemaking process for this regulations package. The 45-day public comment period began on November 27, 2010, and closed on January 11, 2011. The first 15-day comment period began on March 12, 2011 and ended on March 28, 2011. The second 15-day comment period began on May 12, 2011 and ended on May 31, 2011. This agenda item responds to the public comments that were received, recommends proposed changes to the regulations, and requests that the proposed changes be circulated for a third 15-day public comment period, in accordance with the Administrative Procedure Act.

SUMMARY OF KEY ISSUES

California *Education Code* (*EC*) sections 47607(a) and 47607(b) provide the process and criteria for renewal of a school's charter by its chartering authority.

EC Section 47605(k)(3) provides the process for renewal of a school's charter when the SBE had originally authorized the charter on appeal.

EC Section 47607.5 permits a charter school to appeal a non-renewal decision by the school district governing board or the county board of education as the chartering authority.

Through this rulemaking process, the SBE proposes to amend Division 1 Chapter 11 Subchapter 19, Article 2 of the *California Code of Regulations*, Title 5, by adding sections 11966.4, 11966.5, 11966.6, and 11966.7 and amending Section 11967 and 11967.5.1. The proposed regulations clarify and make specific the provisions of *EC* sections 47605, 47607, and 47607.5 regarding the criteria, process, and timelines for renewing a school's charter, and the appeal process up to and including an appeal to the SBE.

Proposed Section 11966.4 includes three new provisions that are intended to:

- Detail the information that a petition for renewal must include to be considered complete.
- Set forth the criteria the governing board of a school district must use in evaluating a charter school's petition for renewal.
- Identify the time period in which the governing board of a school district, as the chartering authority, must act on a petition for renewal before the petition is considered approved.

Proposed Section 11966.5 includes four provisions that are intended to:

SUMMARY OF KEY ISSUES (Cont.)

- Specify the time period a charter school has to submit a petition for renewal to the county board of education after the petition is denied by the governing board of the school district.

- Detail the information that a petition for renewal to the county board of education, as either the chartering authority or the appellate body, must include to be considered complete.

- Specify the grounds on which the county board of education may deny a petition for renewal.

- Identify the time period in which the county board of education has to act on an appeal before the charter school can submit a petition for renewal to the SBE due to inaction by the county board of education.

Proposed Section 11966.6 includes four provisions that are intended to:

- Specify the time period a charter school has to submit a petition for renewal to the SBE after it is denied by the county board of education.

- Detail the information that a petition for renewal must include to be considered complete.

- Specify the time period by which the SBE shall consider an action item to grant or deny the petition for renewal.

- Identify the grounds on which the SBE may deny a petition for renewal.

Proposed Section 11966.7 includes a provision that is intended to:

- Detail a charter school's eligibility to receive class size reduction funds when a school is not renewed by its chartering authority but is renewed on appeal by the county office of education or the SBE and when a charter school initially approved by the SBE on appeal is subsequently renewed by the district that previously had denied the charter.

Proposed Section 11967.5.1(b)(3) is added to identify "an unsound educational program" as not meeting the standards for renewal pursuant to *EC* Section 47607(b) or not meeting the measurable pupil outcomes described in its charter.

During the 45-day public comment period, the CDE received three written comments addressing the proposed regulatory package. The comments addressed a number of concerns and suggestions, including the following:

- The proposed timelines for completing the charter renewal process.

SUMMARY OF KEY ISSUES (Cont.)

- The scope of review for a petition for charter renewal.
- Continuation of funding for charter schools that are renewed on appeal by a different authorizer.
- Application of current SBE regulations governing the criteria for the review and approval of charter school petitions and charter school renewal petitions to district governing boards and county boards of education.
- The automatic renewal provision in proposed Section 11966.4 may exceed SBE authority.
- Other minor, clarifying amendments.

The CDE recommended accepting a majority of the comments and revised the regulations.

During the 15-day public comment period, the CDE received five written comments addressing the proposed regulatory package. The comments addressed a number of concerns and suggestions, including the following:

- Clarification regarding submission and receipt of a charter petition for renewal by a county board.
- Renewal criteria to be used by a county board of education.
- Application of current SBE regulations governing the criteria for the review and approval of charter school petitions and charter school renewal petition to district and county boards of education.
- The proposed timelines for completing the charter renewal process.
- The automatic renewal provision in proposed Section 11966.4 may exceed SBE authority.
- Other minor, clarifying amendments.

The CDE recommended accepting a majority of the comments and revised the regulations.

During the second 15-day public comment period, the CDE received two written comments addressing the proposed regulations. The comments addressed a number of concerns and suggestions, including the following:

- The automatic renewal provision in proposed Section 11966.4

SUMMARY OF KEY ISSUES (Cont.)

- Removal of current SBE regulations governing the criteria for the review and approval of charter school petitions and charter school renewal petition from being applicable to district and county boards of education.

- The removal of the signature requirement for renewal petitions.

While the CDE did not make changes to these proposed regulations in the response to these comments, the CDE amended sections 11966.5 and 11967 to ensure consistency with current statute, as reflected in Attachment 2.

FISCAL ANALYSIS (AS APPROPRIATE)

The Fiscal Impact Statement, which was previously submitted in the March 2011 agenda item, states the requirement to continue eligibility for Class Size Reduction (CSR) funding in the proposed regulations would create unknown and potentially significant state costs, the extent of which would be dependent on the number of charter school renewals by a different authorizer and charter school participation in the CSR program. A second Fiscal Impact Statement has been requested.

ATTACHMENT(S)

Attachment 1: Final Statement of Reasons (13 Pages)

Attachment 2: Proposed Regulations (18 Pages)

Attachment 3: Relevant Education Code and Regulations (13 Pages)

Attachment 4: Fiscal Impact Statement (4 Pages)

FINAL STATEMENT OF REASONS
CHARTER RENEWAL AND APPEAL

UPDATE OF INITIAL STATEMENT OF REASONS

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF NOVEMBER 27, 2010, THROUGH JANUARY 11, 2011, INCLUSIVE.

The originally proposed text was made available for public comment for at least 45 days from November 27, 2010, through January 11, 2011. Three written comment letters were received during that period. A public hearing was held at 9:00 a.m. on January 11, 2011, at the California Department of Education (CDE). There were no comments made at the public hearing. Pursuant to California Government Code sections 11346.9(a)(3) and (a)(5), the CDE, on behalf of the SBE, has summarized and responded to the written comments as follows:

COLIN MILLER, CALIFORNIA CHARTER SCHOOLS ASSOCIATION (CCSA)

Comment A1: Section 11966.5(d). Mr. Miller states that there is a significant concern over the timelines established in the regulations for renewal appeals and the regulations must be amended to provide an opportunity for a school to reach the SBE prior to the end of the fiscal year. He proposes that the timeline for a county board of education to act be shortened from 90 to 60 days.
Accept: The CDE accepts the comment and amended the timeline for a county board to act on a petition for renewal to 60 days, with a provision that the timeline may be extended by an additional 30 days only by written mutual agreement.

Comment A2: Section 11966(a). Mr. Miller proposes the timeline for a charter school to submit a petition for renewal to the SBE be shortened from 60 to 30 days and 150 to 120 days and retaining the SBE's discretion to act on a petition for charter renewal that is submitted past the required deadline in the proposed regulations.
Accept: The timelines are deleted because they are redundant of Education Code section 47605(j)(4).

Comment A3: Section 11966.6(d). Mr. Miller proposes the timeline for the SBE to act be shortened from 120 to 90 days.
Accept: The timelines are deleted because they are redundant of Education Code section 47605(j)(4).

Comment A4: Sections 11966.4(a) and (a)(2), 11966.5(b) and 11966.6(b): Mr. Miller requests that references to the "completeness" of a request for charter renewal be removed from the proposed regulations and be replaced with language regarding the "receipt" of materials by a governing board. He notes that this change will prevent unnecessary delays by a governing board that could repeatedly request more information from a charter school by deeming a petition "incomplete" and preventing the timeline "clock" from starting.

Accept: The CDE accepts the comment and revised the sections.

Comment A5: Section 11966.4(a)(2): Mr. Miller suggests that the review of a charter renewal petition be limited only to elements of the petition that must be revised due to changes in the law, or sections the petitioner has chosen to revise due to programmatic or operation changes. He states that this change will streamline the review process, assist the governing board in focusing on the school's performance rather than the content of the written charter, and notes that because the governing board has already previously approved the charter elements of the charter petition that are not changing need not be reviewed.
Reject: Education Code section 47607(a)(2) states, "Renewals and material revisions of charters are governed by the standards and criteria in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed." Education Code section 47605 sets out the criteria for review of a charter petition, including the 16 required elements of a charter petition. It is the CDE's opinion that Education Code section 47607 does not allow a limited review of a charter petition as suggested by Mr. Miller, but requires a governing board to evaluate charter renewal petitions under a two-prong analysis: (1) whether the charter school meets at least one of the charter renewal criteria under Education Code section 47607(b), and (2) whether the charter petition meets the standards as required by Education Code section 47605.

Comment A6: Section 11966.4(b)(1), 11966.5(c)(1), and 11966.6(c)(1): Mr. Miller suggests an amendment to add "along with future plans for improvement, if any," to the end of these proposed sections. He states that this language will clarify that although a school may have had problems in the past, the authorizer should evaluate a school's plans for improvement in the future when reviewing a charter renewal petition.
Accept: The CDE accepts the comment and revised the sections.

Comment A7: Section 11966.7: Mr. Miller suggests broadening the language in this proposed section to address all funding and accountability issues for "continuing" charter schools beyond just class size reduction funding.
Reject: Mr. Miller's suggestion to address all issues that impact charter schools that are deemed "new" or "continuing" by the CDE is an extremely complex matter that goes beyond the singular intent of proposed section 11966.7, which is to ensure class size reduction funding for charter schools that are deemed eligible under the proposed regulations.

SHERRY SKELLY GRIFFITH, ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS (ACSA)

Comment B1: Section 11967.5.1: Ms. Griffith states the language in this section should be applied at the county and district board level as well as the SBE level, and requests that the same language be repeated under proposed sections 11966.4 and 11966.5.

Accept: The CDE accepts the comment and revised section 11967.5.1.

Comment B2: Section 11966.4(c): Ms. Griffith states the proposed section exceeds the authority of the SBE in requiring for automatic renewal if a local governing board fails to act within 60 days, and cites case law that reinforces that the statute is directory and not mandatory (e.g., *Shapiro et al v. Los Angeles Unified School District,* Case No. BS 121469 citing *Board of Education Sacramento City Unified School District v. Sacramento County Board of Education* (2001) 85 Cal.App.4th 1321, 1329). Ms. Griffith requests the automatic renewal language be removed from the proposed regulations.
Reject: Education Code section 47605(b) expressly requires the governing board of the school district to "either grant or deny the charter." Education Code section 47605(b) further requires local district governing boards to make written factual findings as a condition of denying a petition for the establishment and/or renewal of a charter school. In the absence of such written factual findings, the governing board is prohibited from denying the charter. Because the governing board must either grant or deny the charter, the absence of a decision to deny is thus interpreted as the only remaining option available to the governing board granting the charter. This is in stark contrast to the permissive language governing the actions of county boards of education and the SBE. In these instances the county boards of education and the SBE are not directed to act, and in fact, inactions by county boards of education and the SBE are specifically contemplated by Education Code section 47605(j)(4). The difference in these statutory requirements are consistent with intent of the charter schools Act which seeks to make charter schools an integral part of California's educational system, and the emphasis on local authorization (see for example Education Code sections 47605.8(b) and 47605(k)(3)).

The intent of the Legislature in requiring the local governing board to make a written factual finding in order to deny a petition is also evidenced by looking at revisions to Education Code section 47605(b) since its original adoption in 1992. Originally the language was permissive, allowing a district to grant a petition if it met the stated criteria. In 1993 (AB 544), the Legislature emphasized the intent to encourage the establishment of charter schools by local entities including parents, teachers, and community members. By including this intent in the language of Education Code section 47605(b) the amendment establishing a presumption of approval by the governing board is well grounded.

In no way do these regulations limit a local governing board's capacity or authority ot make a determination based on their evaluation of a petition. These regulations make clear the legislature's intent to presume approval of charter schools unless the local governing board makes a written factual finding to the contrary.

STEPHANIE MEDRANO FARLAND, CALIFORNIA SCHOOL BOARDS ASSOCIATION (CSBA)

Comment C1: Section 11967.5.1: Ms. Farland states the "criteria for renewal should be consistent at every level of the renewal process." She requests that the same

language in section 11967.5.1 regarding the criteria used by the State Board in determining whether a charter school meets the requirements for renewal be repeated in proposed sections 11966.4 and 11966.5 to apply to district and county boards.
Accept: The CDE accepts the comment and amended section 11967.5.1.

Comment C2: Section 11966.4(c): Ms. Farland also requests the automatic renewal language be removed from the proposed regulations. She states that the governing statute does not call for automatic renewal if the governing board fails to act within a certain time and the proposed language goes beyond the scope of the State Board. Ms. Farland cites case law to support this claim (*Shapiro et al v. Los Angeles Unified School District,* Case No. BS 121469 citing *Board of Education Sacramento City Unified School District v. Sacramento County Board of Education* (2001) 85 Cal.App.4th 1321, 1329).
Reject: See response to Comment B2.

AFTER THE 45-DAY COMMENT PERIOD, THE FOLLOWING CHANGES WERE MADE TO THE PROPOSED TEXT OF THE REGULATIONS AND SENT OUT FOR A 15-DAY COMMENT PERIOD.

SECTION 11966.4:

Subdivision (a) is amended to provide greater clarity regarding the timeline for review of a charter renewal petition. The revised language makes clear that the timeline is initiated upon receipt of the renewal petition, and removes reference to the "completeness" of a renewal petition here and throughout the revised regulations. This is necessary to avoid disagreement between a charter school and district governing board about a renewal petition's "completeness."

Subdivision (b)(1) is amended to require district governing boards to also consider a charter school's future plans for improvement if the charter school has presented such plans to the district governing board. This is necessary to clarify that although a charter school may have had a negative finding or occurrence in its past charter term, a charter school may have a corrective action plan for improvement in the future, which the district governing board shall review when completing its comprehensive review of the school's petition for renewal.

Subdivision (c) is amended to clarify that the 60-day timeline is initiated upon the district governing board's receipt of the petition for renewal. This is necessary to provide greater clarity and certainty for charter schools and governing boards about the timeline because it is easier to determine the date of the governing board's receipt of a petition for renewal (i.e., date stamp, etc.) than to determine the submission date by the charter school.

Subdivision (c)(1) is amended to clarify that the governing board is the "district governing board." This amendment also clarifies that the 30-day extension may only be granted by written mutual agreement and no other method of agreement.

SECTION 11966.5:

Subdivision (a) is amended to provide clarity about the action taken by the governing board, which is to adopt written factual findings and take action to deny the renewal. The revised language more closely aligns with board action. The subdivision is also amended to clarify that the 30-day extension may only be granted by written mutual agreement and no other method of agreement.

Subdivision (b) is amended to provide greater clarity regarding the timeline for review of a charter renewal petition. The revised language makes clear that the timeline is initiated upon receipt of the renewal petition, and removes reference to the "completeness" of a renewal petition. This is necessary to avoid disagreement between a charter school and county board of education about a renewal petition's "completeness."

Subdivision (b)(2) is amended to remove reference to the "completeness" of a renewal petition to avoid disagreement between a charter school and a county board of education about a renewal petition's "completeness." The subdivision also adds and makes clear that the copy of themcharter petition that shall be submitted by the charter school is its renewal charter petition.

Subdivision (c)(1) is amended to require county boards of education to also consider a charter school's future plans for improvement if the charter school has presented such plans to the board. This is necessary to clarify that although a charter school may have had a negative finding or occurrence in its past charter term, a charter school may have a corrective action plan for improvement in the future, which the county board of education shall review when completing its comprehensive review of the school's petition for renewal.

Subdivision (d) is amended to clarify that the timeline is initiated upon the county board of education's receipt of the petition for renewal. This is necessary to provide greater clarity and certainty for charter schools and governing boards about the timeline because it is easier to determine the date of the governing board's receipt of a petition for renewal (i.e., date stamp, etc.) than to determine the submission date by the charter school. The subdivision is also amended to shorten the timeline from 90 to 60 days for the county board of education's review, with the option to extend this date by an additional 30 days. This timeline and option for extension aligns with existing regulations in the *California Code of Regulations,* Title 5, section 11967(d), which give the county board of education 60 days to review an initial petition for the establishment of a charter school. This amendment is necessary to ensure an expedient review of a charter renewal petition, provide an improved chance that any renewal petition will be resolved by the end of the school year, allow parents, students, and schools to know the fate of their school before the end of the school year, and to conform with existing regulations.

Subdivision (e) is added to clarify existing statute under Education Code Section 47607, which governs the renewal of a charter school, and Education Code Section 47605.6,

which governs the establishment of a countywide charter school. This subdivision makes clear that if a countywide charter school's petition for renewal is denied by its authorizer (a county board of education), the school has no right to appeal the denial to the SBE. This is consistent with Education Code Section 47605.6(k), which states, "If a county board of education denies a petition, the petitioner may not elect to submit the petition for the establishment of a charter school to the State Board of Education." The new subdivision conforms to existing statute by not allowing the SBE to become the authorizer of a countywide charter school upon establishment, nor upon renewal.

SECTION 11966.6:

The title of Section 11966.6 is amended to read: **§ 11966.6. Charter Petitions That Have Not Been Renewed Locally – Submission to State Board of Education (SBE).** The word "locally" was added to clarify that charter renewal petitions submitted to the SBE for consideration are those that were not approved at the local level.

Subdivision (a) is amended to allow the SBE to consider a petition for renewal at any time. This is necessary to avoid confusing timelines and allowing for the administrative procedures in having the SBE consider an action item. Additionally, such timelines would only serve to confuse petitioners, as Education Code section 47605(j)(4) already allows for an end to the administrative process.

Subdivision (b) is amended to clarify that the timeline is initiated upon the SBE's receipt of the petition for renewal. This is necessary to provide greater clarity and certainty for charter schools and the SBE about the timeline because it is easier to determine the date of the SBE's receipt of a petition for renewal (i.e., date stamp, etc.) than to determine the submission date by the charter school.

Subdivision (b)(2) is amended to remove reference to the "completeness" of a renewal petition to avoid disagreement between a charter school and the SBE about a renewal petition's "completeness." The subdivision also adds makes clear that the copy of charter petition that shall be submitted by the charter school is its renewal charter petition.

Subdivision (b)(3) is amended to remove reference to the 120-day timeline because the reference is unnecessary and the amendment conforms with the revised timelines in proposed Section 11966.6(a).

Subdivision (c)(1) is amended to require the SBE to also consider a charter school's future plans for improvement if the charter school has presented such plans to the board. This is necessary to clarify that although a charter school may have had a negative finding or occurrence in its past charter term, a charter school may have a corrective action plan for improvement in the future, which the SBE shall review when completing its comprehensive review of the school's petition for renewal.

Subdivision (d) is deleted to provide the SBE with maximum flexibility in scheduling and hearing charter renewal petitions. Additionally, such timelines would only serve to confuse petitioners, as Education Code section 47605(j)(4) already allows for an end to the administrative process.

SECTION 11967.5.1 is amended to read:

§ 11967.5.1. Criteria for the Review and Approval of Charter School Petitions and Charter School Renewal Petitions by District Governing Boards, County Boards of Education, and the State Board of Education (SBE).
The title of this section is amended to clarify that the regulations apply to the review of charter renewal petitions as well as initial charter petitions, and the section applies to the review of charter petitions and renewal petitions by district governing boards and county boards of education as well as the SBE. This is necessary to clarify that the existing regulations, which govern the review of a charter petition as required by Education Code section 47605, also extend to the review of charter renewal petitions as required by Education Code section 47607. Further, the amendment applies the criteria specified in the existing regulations to the review of charter petitions by district governing boards and county boards of education to ensure the criteria for approval of a charter petition (initial and renewal) are the same at every level of review, from the local level up to and including the SBE. This is necessary to ensure the consistency of the review process and provide greater clarity and guidance for district governing boards and county boards of education.

SECTIONS 11967.5.1(a), (b)(1), (b)(2), (c)(1), (c)(2), (d), (f), (f)(1)(C), (f)(9)(C), (f)(13)(C), and (f)(14)(C):

These subdivisions include conforming amendments that are necessary to apply section 11967.5.1 to district governing boards and county boards of education by removing reference to the SBE, as applicable, and other minor, technical amendments.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD OF MARCH 12, 2011, THROUGH MARCH 28, 2011, INCLUSIVE.

JAN ISENBERG, LOS ANGELES COUNTY OFFICE OF EDUCATION

Comment A1: Sections 11966.4(a) and 11966.5(b): Ms. Isenberg states that the language “received when submitted” is confusing because the two actions do not necessarily occur at the same time. She states that it is possible for a document submitted by US or electronic mail to never be received and/or received several days subsequent to submission. Ms. Isenberg suggests revisions to this language.
Accept: The CDE revised sections 11966.4(a) and 11966.5(b) to provide the clarity requested.

Comment A2: Section 11966.5(a): Ms. Isenberg states that the phrase “a petition for renewal” does not preclude a charter from submitting to the county board a petition that is different from the one submitted to the school district.
Accept: No response required. This comment does not pertain to the changes proposed during the 15-day comment period.

Comment A3: Section 11966.5(b): Ms. Isenberg suggests minor changes to the language to add clarity.
Response: No response required. This comment does not pertain to the changes proposed during the 15-day comment period.

Comment A4: Section 11966.5(b)(2): Ms. Isenberg indicates that the phrase “how the charter school has met” refers to past practice by the school as an entity and does not comply with the requirement that charter petitions reflect changes to law that have occurred since the school was last authorized.
Response: No response required. This comment does not pertain to the changes proposed during the 15-day comment period.

Comment A5: Section 11966.5(d): Ms. Isenberg states that 60 days is insufficient time to review a petition.
Reject: This timeline and option for extension aligns with existing statute (Education Code section 47605(b)) as well as existing regulations, section 11967(d), which gives the county board of education 60 days to review an initial petition, on appeal from a local board, for the establishment of a charter school. This amendment is necessary to ensure an expedient review of a charter renewal petition, provide an improved chance that any renewal petition will be resolved by the end of the school year, allow parents, students, and schools to know the fate of their school before the end of the school year, and to conform with existing regulations.

Comment A6: Section 11966.5(d): Ms. Isenberg states that there is a need for regulatory and statutory language to clarify that a renewal petition for a countywide charter school is reviewed under the same criteria as it was originally reviewed and authorized.
Accept in part/Reject in part: The CDE revised section 11966.5(c)(2) to incorporate the proposed changes. The CDE cannot make changes to the Education Code.

STEPHANIE MEDRANO FARLAND, CALIFORNIA SCHOOL BOARDS ASSOCIATION (CSBA)

Comment B1: Section 11967.5.1: Ms. Farland states that during the 45-day comment period, she recommended that the language in section 11967.5.1, the criteria for SBE approval of a charter, be repeated in the renewal regulations to ensure that the renewal process is consistent at every level. However, the current proposed language in section 11967.5.1, is not limited to the renewal process, and is instead, also applied to the initial approval of petitions. She requests that the current language proposed in section

11967.5.1 be clarified to limit the application of these criteria to the charter renewal process, only.
Accept: The CDE agrees that the initial charter approval process is not within the scope of these renewal regulations. The CDE will remove language pertaining to initial charter approval from section 11967.5.1.

Comment B2: Section 11966.4(c): Ms. Farland also requests the automatic renewal language be removed from the proposed regulations. She states that the governing statute does not call for automatic renewal if the governing board fails to act within a certain time and the proposed language goes beyond the scope of the State Board. Ms. Farland cites case law to support this claim (*Shapiro et al v. Los Angeles Unified School District*, Case No. BS121469 citing *Board of Education Sacramento City Unified School District v. Sacramento County Board of Education* (2001) 85 Cal.App.4th 1321, 1329).
Response: No response required. This comment does not pertain to the changes proposed during the 15-day comment period.

COLIN MILLER, CALIFORNIA CHARTER SCHOOLS ASSOCIATION (CCSA)

Comment C1: Section 11966.6: Mr. Miller states that he continues to be concerned that the timelines established in the regulations for renewal appeals takes too long. He appreciates the prior revisions made to address his concerns with the timelines. However, he states that the complete elimination of any timeline for the CDE or the SBE to consider or act on renewal appeals makes the local timelines less effective. He recommends that the regulations be revised to assure that the SBE consider any renewal appeal no later than 90 days after the request for the appeal has been received.
Reject: Because the SBE does not meet as often as local boards meet, the SBE should not be compelled to take action within a given timeline. In addition, the SBE reserves the right to act or not act upon a petition. Further, it is current practice at the CDE that charter petitions received are acted upon immediately. Per a request by SBE Board President Michael Kirst, the CDE will begin to track and report to the SBE, the date the CDE receives a petition and the date the SBE, subsequently, acts upon it. Additionally, such timelines would only serve to confuse petitioners, as Education Code section 47605(j)(4) already allows for an end to the administrative process.

Comment C2: Section 11967.5.1: Mr. Miller states that section 11967.5.1, the criteria for SBE approval of charter petitions, was enacted for the explicit purpose of SBE review, and was not initially contemplated to apply to district and county boards. He states that school district and county boards have been authorizing charter schools for years without any state imposed conditions or criteria guiding that process. Mr. Miller states that there is no basis in law or any compelling reason at this time, to undermine local discretion and authority to impose SBE criteria on local authorizers. He states that local board who wish to apply SBE criteria may already do so at their discretion. Mr. Miller recommends deleting any reference to district and county boards in section 11967.5.1.

Accept: The CDE agrees that the initial charter approval process is not within the scope of these renewal regulations. The CDE will remove the SBE's criteria for the review and approval of charter school petitions from application to district and county boards of education. In addition, in order to preserve consistency in charter petition review, at both initial submission and renewal, the CDE will also remove language proposing SBE criteria for the review and approval of renewal petitions to be applicable to district and county boards of education. The CDE will provide language to ensure section 11967.5.1 pertains only to the SBE.

LAURA PRESTON, ASSOCIATION OF CALIFORNIA SCHOOL ADMINISTRATORS

Comment D1: Section 11967.5.1: Ms. Preston states that some of the language inserted into the renewal process has also been inserted into the criteria to be used for the initial approval of petitions. She believes this is beyond the scope of the regulations, however, ACSA does believe renewal should be consistent at every level.
Accept: The CDE agrees that the initial charter approval process is not within the scope of these renewal regulations. The CDE will remove language pertaining to initial charter approval from section 11967.5.1.

Comment D2: Section 11966.4(c): Ms. Preston states the proposed language exceeds the authority of the SBE in requiring for automatic renewal if a local governing board fails to act within 60 days. Ms. Preston requests the automatic renewal language be removed from the proposed regulations.
Response: No response required. This comment does not pertain to the changes proposed during the 15-day comment period.

ERIC PREMACK, CHARTER SCHOOLS DEVELOPMENT CENTER

Comment E1: Section 11967.5.1. Mr. Premack states that the amendments in the 15-day notice regulations constitute a huge change not just to the immediate topic of charter renewal, but reach far beyond this topic to the original granting and review of charters at the local level by local agencies. Mr. Premack suggests deleting the words "district governing boards, county boards of education, and" of the draft and returning the references to the SBE in the remainder of this section.
Response: No response required. Comment was received one day past the closing of the comment period.

AFTER THE 15-DAY COMMENT PERIOD, THE FOLLOWING CHANGES WERE MADE TO THE PROPOSED TEXT OF THE REGULATIONS AND SENT OUT FOR A SECOND 15-DAY COMMENT PERIOD.

General changes to regulations include replacing "board" with "SBE" throughout the regulations based on comments received during this 15-day comment period.

SECTION 11966.4

Subdivision (a) is revised to provide the clarity requested by a commenter during the 15-day public comment period.

Subdivision (b)(2) is revised to provide clarity by more closely aligning with the language of Education Code Section 47605.

Subdivision (c) is revised to provide clarity about when a petition is received pursuant to Education Code Section 47605.

SECTION 11966.5

Subdivision (a) is revised to provide clarity by more closely aligning with the language of Education Code Section 47605.

Subdivisions (b), (b)(2) and (c)(2) are revised to provide the clarity requested by a commenter during the 15-day public comment period.

SECTION 11966.6

Subdivision (b)(3) is revised to provide clarity by more closely aligning with the language of Education Code Section 47605.

SECTION 11967.5.1 is amended to remove language pertaining to initial charter approval based on comments received.

Subdivision (b)(3) is amended for clarity.

Subdivision (f)(15) is amended for clarity.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE SECOND 15-DAY COMMENT PERIOD OF MAY 12, 2011, THROUGH MAY 31, 2011, INCLUSIVE.

STEPHANIE FARLAND, CALIFORNIA SCHOOL BOARDS ASSOCIATION

Comment A1: Sections 11967.5.1: Ms. Farland states that, in a previous letter, she asked that the criteria for renewal be consistent at every level of the renewal process. She requested that the same language, as that found in 11967.5.1, be applied to district and county boards. She notes that this request was initially taken and implemented but was subsequently removed during the 15-day comment period. She requests that this language be re-inserted.
Reject: The CDE initially agreed to apply the SBEs criteria for the review and renewal of a charter petition to district and county boards with the understanding that the criteria would be applied at both initial approval and renewal, to preserve consistency in the charter petition review process. However, during the 15-day comment period, the CDE received several statements, including one from CSBA, stating that the SBE should not

regulate the initial approval process of local education boards since those criteria are outlined in statute. Consequently, to preserve consistency in the charter petition review process, the CDE removed application of Section 11967.5.1 from being applicable to local boards at both initial approval and renewal. If Section 11967.5.1 is to be applicable to local boards, it must be applied to both the initial approval process and the renewal process.

Comment A2: Section 11966.4(c): Ms. Farland also requests the automatic renewal language be removed from the proposed regulations. She states that the governing statute does not call for automatic renewal if the governing board fails to act within a certain time and the proposed language goes beyond the scope of the State Board. Ms. Farland cites case law to support this claim (*Shapiro et al v. Los Angeles Unified School District*, Case No. BS121469 citing *Board of Education Sacramento City Unified School District v. Sacramento County Board of Education* (2001) 85 Cal.App.4th 1321, 1329).
Response: No response required. This comment does not pertain to the changes proposed during the second 15-day comment period.

DEVON B. LINCOLN, LOZANO SMITH ATTORNEYS AT LAW

Comment 1B: Section 11966.4(c): Mr. Lincoln states that the automatic renewal procedure exceeds the limits of current law governing charter schools by diminishing districts' discretion and control over charter schools. Mr. Lincoln sites case law to support his claim (Wilson v. State Bd of Education (1999) 75 Cal. App.4th 1125). Mr. Lozano indicates that the Wilson court highlighted a district's ongoing control over its charter schools and underscored the district's ability to revoke a charter. He states that a district's power to decide not to renew the charter is analogous to the district's power to revoke the charter.
Response: No response required. This comment does not pertain to the changes proposed during the second 15-day comment period.

Comment 2B: Section 11967.5.1(d): Mr. Lincoln states that the proposed regulation making the signature requirement of Education Code section 47605(a) inapplicable to a petition for renewal is contrary to the governing statute.
Response: No response required. This comment does not pertain to the changes proposed during the second 15-day comment period.

AFTER THE SECOND 15-DAY COMMENT PERIOD, THE FOLLOWING CHANGES WERE MADE TO THE PROPOSED TEXT OF THE REGULATIONS AND SENT OUT FOR A THIRD 15-DAY COMMENT PERIOD.

SECTION 11966.5

Subdivision (a) is amended to remove the language "**and takes action to deny the renewal**" because this language confused this issue of whether the county board had to take action on the petition. The deletion clarifies that the county board is not

required to act, but if it does act to deny a renewal petition it must issue written factual findings.

SECTION 11967

General changes were made throughout section 11967 to replace "State Board of Education" with "SBE" for consistency.

The title was changed to "**Appeals on Petitions <u>For The Establishment of a Charter School That Have Been Denied</u>**" to clarify that this section applies to petitions for the establishment of a charter school as opposed to petitions for renewal which are governed by sections 11966.5 and 11966.6.

Subdivision (b)(2): The intent of this section is to allow for the submission of an appeal even if the written factual findings are not available to the petitioner. This is necessary to allow the petitioner to timely meet the deadlines for submission of an appeal in accordance with (a).

Subdivision (d) was re-written to clarify that a county board of education, upon receipt of an appeal for the establishment of a charter school, need not act on the petition. However, while Education Code section 47605 specifically permits inaction by a county board of education, this language preserves a timely resolution of the petitioner's administrative remedies in the interest of timely notifying interested parents and students of the charter school's establishment.

Subdivision (e) is amended to clarify that the SBE has 120 days to act on a petition pursuant to Education Code section 47605(j)(4): Upon the expiration of this 120 days the denial by the local governing board is subject to judicial review. This language is necessary to ensure petitioners are aware of their ability to seek judicial review and the timeline in which the SBE must act. These amendments further clarify that the 120 day timelines begin upon the SBE's receipt of a petition appealing the denial of the charter school. Finally, these amendments clarify that to extend the 120 day time limit, there must be written mutual agreement. This is necessary to allow the SBE the flexibility to consider petitions while preserving the interests of petitioners.

ALTERNATIVES DETERMINATION

The SBE has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons that the proposed regulation.

LOCAL MANDATE DETERMINATION

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

6-8-11

- The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.
- The 15-day text proposed to be added is in "**bold underline**," deleted text is displayed in "~~**bold strikeout**~~."
- The second 15-day text proposed to be added is in "**bold double underline**;" text proposed to be deleted is displayed in "~~**bold double strikethrough**~~."
- The 3rd 15-day text proposed to be added is in "underlined and shaded", deleted text is "~~strikeout and shaded~~.

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 19. Charter Schools

Article 2. General Provisions

§11966.4. Submission of a Charter School Renewal Petition to the Governing Board of a School District.

(a) A petition for renewal submitted pursuant to Education Code section 47607 shall **be considered** ~~**received when submitted to**~~ **by the district governing board upon receipt of the petition with** ~~**include both of the following and shall be considered complete for action by the governing board of the school district upon receipt by the district of**~~ all of the requirements set forth in this subdivision:

(1) Documentation that the charter school meets at least one of the criteria specified in Education Code section 47607(b).

(2) A ~~**complete**~~ copy of the **renewal** charter petition including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(b)(1) When considering a petition for renewal, the district governing board shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success**, along with future plans for improvement if any**.

(2) The district governing board may deny a petition for renewal of a charter school only if the district governing board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b) or **facts to support a** failure to meet one of the criteria set forth in Education Code section 47607(b).

(c) If **within 60 days of** ~~a district governing board's~~ **its receipt of a petition for renewal,** ~~the~~ **a district** ~~a~~ governing board ~~fails to make~~ **has not made a** written factual finding~~s~~ as **mandated by Education Code section 47605(b)** ~~to why the charter school is not renewed~~ ~~within 60 days of a charter school's submission of a complete petition for renewal~~, the ~~renewal petition~~ **absence of written factual findings** shall be deemed ~~approved for the purposes of this section~~ **an approval of the petition for renewal**.

(1) The **district** governing board and charter petitioner may extend this date by an additional 30 days **only** by written mutual agreement.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47605 and 47607, Education Code.

§ 11966.5. Charter Petitions That Have Not Been Renewed – Submission to County Board of Education.

(a) When the governing board of a school district denies a charter school's petition for renewal, the charter school may submit a petition for renewal to the county board of education not later than 30 calendar days after the **district** governing board ~~adopts~~ ~~makes~~ **makes** its written factual findings ~~and takes action to deny the renewal~~. The county board of education and the charter petitioner may extend this date by an additional 30 days **only** by written mutual agreement. A petition for renewal not submitted to the county board of education within ~~the 30 days or the alternative written timeline mutually agreed to~~ **this time** shall be considered denied with no further options for administrative appeal.

(b) A petition for renewal, whether submitted to the county board of education as the chartering authority or on appeal from denial of the renewal petition by the local governing board, ~~shall include all of the following and~~ shall be considered ~~received when submitted to complete for action~~ **by** the county board of education **upon**

receipt of the petition with ~~upon receipt by the county of~~ all of the requirements set forth in this subdivision.

(1) Documentation that the charter school ~~met~~ **meets** at least one of the criteria specified in Education Code section 47607(b).

(2) A ~~complete~~ copy of the **renewal** charter petition**, as denied by the local board,** including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(3) When applicable, a copy of the governing board's denial and supporting written factual findings, if available.

(4) A description of any changes to the renewal petition necessary to reflect the county board of education as the chartering entity.

(c)(1) When considering a petition for renewal, the county board of education shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success**, along with future plans for improvement, if any**.

(2) The county board of education may deny a petition for renewal of a charter school only if the county board of education makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth**, as applicable,** in Education Code section**s** 47605(b) **and 47605.6(b),** or failure to meet one of the criteria set forth in Education Code section 47607(b).

(d) If **within 60 days of a county board of education's receipt of a petition for renewal** the county board of education does not grant or deny the petition for the renewal of a charter school ~~within 90 calendar days of the charter school's submission of a complete petition pursuant to this section~~, the charter school may submit a petition for renewal to the State Board of Education (SBE). **The county board of education and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.**

(e) If a county board of education denies a petition for renewal of a countywide charter school established under Education Code section 47605.6, the petitioner may not elect to submit the petition for renewal of the countywide charter school to the SBE.

NOTE: Authority cited: Sections 33031 and 47605, Education Code. Reference: Sections 47605, **47605.6,** 47607 and 47607.5, Education Code.

§ 11966.6. Charter Petitions That Have Not Been Renewed Locally – Submission to State Board of Education (SBE).

(a) When the county board of education denies or takes no action on a charter school's petition for renewal, the charter school may submit a petition for renewal to the SBE **~~not later than 60 calendar days after the county board of education's denial, or 150 calendar days after the charter school's submission of a complete petition pursuant to section 11966.5(b). Any petition received by the SBE more than 60 days after the county board of education's denial, or more than 150 days after the charter schools' submission of a complete petition pursuant to section 11966.5(b) shall not be acted upon by the SBE~~**.

(b) A petition for renewal shall include all of the following and shall be considered **received when submitted to ~~complete for action upon receipt by~~** the SBE **with ~~of~~** all of the requirements set forth in this subdivision.

(1) Documentation that the charter school met at least one of the criteria specified in Education Code section 47607(b).

(2) A **~~complete~~** copy of the **renewal** charter petition, as denied, including a reasonably comprehensive description of how the charter school has met all new charter school requirements enacted into law after the charter was originally granted or last renewed.

(A) The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(3) A copy of **~~the~~** district governing board's **written factual findings denying the petition for renewal, and evidence of the ~~and~~** county governing board's denial or**, if the county board of education failed to act, evidence that the timeline set forth in**

section 11966.5(d) has expired. ~~**expiration of the 120 day timeline in section 11966.5(d) and supporting written factual findings, if available.**~~

(4) A description of any changes to the renewal petition necessary to reflect the SBE as the chartering entity.

(c)(1) When considering a petition for renewal, the SBE shall consider the past performance of the school's academics, finances, and operation in evaluating the likelihood of future success**, along with future plans for improvement, if any**.

(2) The SBE may deny a petition for renewal of a charter school only if the SBE makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b) or failure to meet one of the criteria set forth in Education Code section 47607(b).

~~**(d) Within 120 days of receiving a petition for renewal complete petition package, the SBE shall consider an action item to grant or deny the charter petition. This date may be extended by an additional 30 days if the SBE and the petitioner(s) agree to the extension.**~~

NOTE: Authority cited: Sections 33031 and 47605, Education Code. Reference: Sections 47605, 47607 and 47607.5, Education Code.

§ 11966.7. Categorical Funding for Charter Schools Renewed by a Different Authorizer.

(a) A charter school whose charter is not renewed by the chartering authority but is subsequently approved on appeal by the county office of education or the SBE, and a charter school initially approved by the SBE on appeal and subsequently renewed by the district that previously had denied the charter, shall continue to be eligible for class size reduction funds provided that the charter school had applied for class size reduction funds in 2008-09 either directly or through its authorizer.

(1) A charter school that applied through its authorizer in 2008-09 shall, for purposes of Education Code section 52124.3, continue to be eligible for funding through its authorizer for the same number of classes for which its authorizer applied for funding on its behalf in 2008-09 and all subsequent years during which the school was operational. In order to receive funding, a charter school must provide timely

reports of actual enrollment in each participating class, pursuant to sections 52124 and 52126, to its 2008-09 authorizer.

(2) A charter school that is eligible for funding pursuant to this subdivision shall not be eligible for class size reduction funding pursuant to section 42606.

(3) This subdivision shall be in effect July 1, 2010, through fiscal year 2011-12 or until such time as section 52124.3 is no longer in effect.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 42605, 42606 and 52124.3, Education Code.

§11967. Appeals on ~~Charter~~ Petitions For The Establishment of a Charter School That Have Been Denied

(a) A charter school petition that has been previously denied by the governing board of a school district must be received by the county board of education not later than 180 calendar days after the denial. A charter school petition that has been previously denied by a county board of education must be received by the State Board of Education (SBE) not later than 180 calendar days after the denial. Any petition received by the county board of education or the ~~State Board of Education~~ SBE more than 180 days after denial shall not be acted upon by the county board of education or the ~~State Board of Education~~ SBE.

(b) When filing a petition with the county board of education or the ~~State Board of Education~~ SBE for the establishment of a charter school, petitioner(s) shall provide the following:

(1) A complete copy of the charter petition as denied, including the signatures required by Education Code section 47605.

(2) Evidence of the governing board’s action to deny the petition (e.g. meeting minutes) and the governing board's written factual findings specific to the particular petition, when available, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b).

(3) A signed certification stating that petitioner(s) will comply with all applicable law.

(4) A description of any changes to the petition necessary to reflect the county board of education or the ~~State Board of Education~~ SBE as the chartering entity, as applicable.

(c) The county board of education or ~~State Board of Education~~ SBE shall deny a petition for the establishment of a charter school only if that board makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the grounds for denial set forth in Education Code section 47605(b)(1)-(5).

(d) ~~Not later than 60 days after receiving a complete petition package, and following review of the petition at a duly noticed public meeting, a county board of education shall grant or deny the charter petition. This time period may be extended by an additional 30 days if the county board of education and the petitioner(s) agree to the extension.~~ If within 60 days of a county board of education's receipt of a petition appealing the denial to establish a charter school, the county board of education does not grant or deny the petition for the establishment of a charter school, the charter school may submit the petition for the establishment of a charter school to the SBE. The county board of education and charter petitioner may extend this date by an additional 30 days only by written mutual agreement.

(e) ~~Not later than 90~~ If, within 120 days ~~after receiving a complete petition package,~~ of the SBE's receipt of a petition appealing the denial to establish a charter school, the ~~State Board of Education~~ SBE does not ~~shall schedule, at its next regular board meeting, an action item to~~ grant or deny the charter petition~~.~~, the decision of the governing board of the school district to deny the petition is subject to judicial review. The SBE and the charter petitioner may extend t~~T~~his date ~~may be extended~~ by an additional 30 days only by written mutual agreement. ~~if the State Board of Education and the petitioner(s) agree to the extension.~~

(f) In considering charter petitions that have been previously denied, the county board of education or ~~State Board of Education~~ SBE are not limited to a review based solely on the reasons for denial stated by the school district, but must review the charter school petition pursuant to Education Code section 47605(b).

Note: Authority cited: Sections 33031 and 47605~~(j)(5)~~, Education Code. Reference: Section 47605~~(j)~~, Education Code.

§ 11967.5.1. Criteria for the Review and Approval of Charter School Petitions and Charter School Renewal Petitions by ~~District Governing Boards, County Boards of Education, and~~ the State Board of Education (SBE).

(a) For purposes of Education Code section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the ~~State Board of Education's~~ **~~board's~~ SBE's** judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted **~~by the State Board of Education~~ SBE**.

(b) For purposes of Education Code section 47605(b)(1), a charter petition shall be "an unsound educational program" if it is ~~either~~ any of the following:

(1) A program that involves activities that the **~~board~~** ~~State Board of Education~~ **SBE** determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.

(2) A program that the **~~board~~** ~~State Board of Education~~ **SBE** determines not to be likely to be of educational benefit to the pupils who attend.

(3) If the petition is for renewal of a charter school, **and either** the charter school has not met the standards for renewal pursuant to Education Code section 47607(b), as applicable, or **the charter school** has not met the measurable pupil outcomes as described in its charter.

(c) For purposes of Education Code section 47605(b)(2), the ~~State Board of Education~~ SBE shall take the following factors into consideration in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program."

(1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the **~~board~~** ~~State Board of Education~~ **SBE** regards as unsuccessful, e.g., the petitioners have been associated

with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.

(2) The petitioners are unfamiliar in the **~~board's~~** ~~State Board of Education's~~ **SBE** judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.

(3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. An unrealistic financial and operational plan is one to which any or all of the following applies:

(A) In the area of administrative services, the charter or supporting documents do not adequately:

1. Describe the structure for providing administrative services, including, at a minimum, personnel transactions, accounting, and payroll that reflects an understanding of school business practices and expertise to carry out the necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise.

2. For any contract services, describe criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors.

(B) In the area of financial administration, the charter or supporting documents do not adequately:

1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.

2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.

3. Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.

4. Present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.

5. Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.

(C) In the area of insurance, the charter and supporting documents do not adequately provide for the acquisition of and budgeting for general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

(D) In the area of facilities, the charter and supporting documents do not adequately:

1. Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.

2. In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.

3. Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.

(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have a plan to secure the services of individuals who have the necessary background in these areas:

(A) Curriculum, instruction, and assessment.

(B) Finance and business management.

(d) For purposes of Education Code section 47605(b)(3), a charter petition that "does not contain the number of signatures required by subdivision (a)" of Education Code section 47605 shall be a petition that did not contain the requisite number of signatures at the time of the ~~its~~ submission of the original charter to a school district **governing board** pursuant to Education Code section 47605(a). The ~~**board**~~ ~~State Board of Education~~ **SBE** shall not disregard signatures that may be purported to have been withdrawn or to have been determined to be invalid after the petition was denied by the school district. The signature requirement set forth in Education Code section 47605(a) is not applicable to a petition for renewal.

(e) For purposes of Education Code section 47605(b)(4), a charter petition that "does not contain an affirmation of each of the conditions described in subdivision (d)" of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).

(f) For purposes of Education Code section 47605(b)(5), the **~~board~~** ~~State Board of Education~~ **SBE** shall take the following factors into consideration in determining whether a charter petition does not contain a "reasonably comprehensive" description of each of the specified elements. In addition to the contents of the charter document for a petition for renewal, the board shall also consider the actual performance of the charter school on each of the elements in this section.

(1) The description of the educational program of the school, as required by Education Code section 47605(b)(5)(A), at a minimum:

(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.

(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an "educated person in the 21st century, belief of how learning best occurs, and ~~a~~ goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.

(C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.

(D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, **or** technology-based education).

(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the ~~State~~

~~Board of Education~~ SBE pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.

(F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.

(G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.

(H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.

(2) Measurable pupil outcomes, as required by Education Code section 47605(b)(5)(B), at a minimum:

(A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.

(B) Include the school's Academic Performance Index growth target, if applicable.

(3) The method by which pupil progress is to be measured, as required by Education Code section 47605(b)(5)(C), at a minimum:

(A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment consistent with paragraph (2)(A) of subdivision (f) of this section.

(B) Includes the annual assessment results from the Statewide Testing and Reporting (STAR) program.

(C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:

(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.

(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:

1. The charter school will become and remain a viable enterprise.

2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).

3. The educational program will be successful.

(5) The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:

(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.

(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.

(C) Specify that the all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:

(A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.

(B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.

(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.

(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.

(7) Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), the means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.

(8) To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.

(9) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority, as required by Education Code section 47605(b)(5)(I), at a minimum:

(A) Specify who is responsible for contracting and overseeing the independent audit.

(B) Specify that the auditor will have experience in education finance.

(C) Outline the process of providing audit reports to the **board** ~~State Board of Education~~ **SBE**, California Department of Education, or other agency as the **board** ~~State Board of Education~~ **SBE** may direct, and specifying the time line in which audit exceptions will typically be addressed.

(D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions.

(10) The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:

(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.

(B) Identify the procedures by which pupils can be suspended or expelled.

(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.

(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).

(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):

1. Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.

2. Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local educational agency (LEA) (or program of any ~~local education agency~~ LEA) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the ~~local education agency~~ LEA.

(13) The description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:

(A) Any rights upon leaving the employment of an ~~local education agency~~ LEA to work in the charter school that the ~~local education agency~~ LEA may specify.

(B) Any rights of return to employment in an ~~local education agency~~ LEA after employment in the charter school as the ~~local education agency~~ LEA may specify.

(C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the **~~board~~** ~~State Board of Education~~ **SBE** determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.

(14) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:

(A) Include any specific provisions relating to dispute resolution that the ~~State Board of Education~~ SBE determines necessary and appropriate in recognition of the fact that the ~~State Board of Education~~ SBE is not an ~~local education agency~~ LEA.

(B) Describe how the costs of the dispute resolution process, if needed, would be funded.

(C) Recognize that, because it is not an ~~local education agency~~ LEA, the ~~State Board of Education~~ SBE may choose **to** resolve a dispute directly instead of pursuing

the dispute resolution process specified in the charter, provided that if the ~~State Board of Education~~ SBE intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.

(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the ~~State Board of Education's~~ SBE's discretion in accordance with that provision of law and any regulations pertaining thereto.

(15) The declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act. (~~Chapter 10.7 (**commencing with Government Code s**S**ection 3540**) of Division 4 of Title 1 of the Government Code**), as required by** Education Code section 47605(b)(5)(O)~~,~~ recognizes that the ~~State Board of Education~~ SBE is not an exclusive public school employer. ~~**and that,**~~ **T**~~**t**~~herefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (~~Chapter 10.7 (~~commencing with Government Code s~~S~~ection 3540~~) of Division 4 of Title 1 of the Government Code~~).

(g) A "reasonably comprehensive" description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:

(1) Is substantive and is not, for example, a listing of topics with little elaboration.

(2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.

(3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.

(4) Describes, as applicable among the different elements, how the charter school will:

(A) Improve pupil learning.

(B) Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.

(C) Provide parents, guardians, and pupils with expanded educational opportunities.

(D) Hold itself accountable for measurable, performance-based pupil outcomes.

(E) Provide vigorous competition with other public school options available to parents, guardians, and students.

NOTE: Authority cited: Sections 33031 and 47605~~(j)(5)~~, Education Code. Reference: Section 47605, Education Code.

6-8-11 [California Department of Education]

***Education Code (EC)* Section 47607: Charter term renewal; criteria; material revision of charter; revocation**

***EC* sections 47607 (a) and 47607(b)**

(a) (1) A charter may be granted pursuant to Sections 47605, 47605.5, and 47606 for a period not to exceed five years. A charter granted by a school district governing board, a county board of education or the state board, may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period of five years. A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter. The authority that granted the charter may inspect or observe any part of the charter school at any time.

(2) Renewals and material revisions of charters are governed by the standards and criteria in Section 47605, and shall include, but not be limited to, a reasonably comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed.

(b) Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever date occurs later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4) (A) The entity that granted the charter determines that the academic performance of the charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

(i) Documented and clear and convincing data.

(ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4

(commencing with Section 60640) for demographically similar pupil populations in the comparison schools.

(iii) Information submitted by the charter school.

(C) A chartering authority shall submit to the Superintendent copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent shall review the materials and make recommendations to the chartering authoring based on that review. The review may be the basis for a recommendation made pursuant to Section 47604.5.

(D) A charter renewal may not be granted to a charter school prior to 30 days after that charter school submits materials pursuant to this paragraph.

(5) Has qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

***Education Code (EC)* Section 47605: Petition process to establish charter school; public hearing to review petition; grounds for grant or denial; statewide standards and pupil assessments; requirements for school relating to programs, admissions, practices and operations; information required of petitioners; preferences given to petitioners; notice of approval; denial of petition; criteria for review; oversight responsibilities; teacher qualifications; financial audit report**

***EC* Section 47605 (k)(3)**
A charter school that has been granted its charter through an appeal to the state board and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school's petition for renewal, the school may petition the state board for renewal of its charter.

***(EC*) Section 47607.5: Renewal; application following denial or petition**
If either a school district governing board or a county board of education, as a chartering agency, does not grant a renewal to a charter school pursuant to Section 47607, the charter school may submit its application for renewal pursuant to the procedures pertaining to a denial of a petition for establishment of a charter school, as provided in subdivision (j) of Section 47605.
(Added by Stats.2000, c. 160 (S.B.326), § 1.)

California Code of Regulations, Title 5 (5 _CCR_) Section 11967.5.1: Criteria for the Review and Approval of Charter School Petitions by the State Board of Education.

(a) For purposes of Education Code section 47605(b), a charter petition shall be "consistent with sound educational practice" if, in the State Board of Education's judgment, it is likely to be of educational benefit to pupils who attend. A charter school need not be designed or intended to meet the educational needs of every student who might possibly seek to enroll in order for the charter to be granted by the State Board of Education.

(b) For purposes of Education Code section 47605(b)(1), a charter petition shall be "an unsound educational program" if it is either of the following:

(1) A program that involves activities that the State Board of Education determines would present the likelihood of physical, educational, or psychological harm to the affected pupils.

(2) A program that the State Board of Education determines not to be likely to be of educational benefit to the pupils who attend.

(c) For purposes of Education Code section 47605(b)(2), the State Board of Education shall take the following factors into consideration in determining whether charter petitioners are "demonstrably unlikely to successfully implement the program."

(1) If the petitioners have a past history of involvement in charter schools or other education agencies (public or private), the history is one that the State Board of Education regards as unsuccessful, e.g., the petitioners have been associated with a charter school of which the charter has been revoked or a private school that has ceased operation for reasons within the petitioners' control.

(2) The petitioners are unfamiliar in the State Board of Education's judgment with the content of the petition or the requirements of law that would apply to the proposed charter school.

(3) The petitioners have presented an unrealistic financial and operational plan for the proposed charter school. An unrealistic financial and operational plan is one to which any or all of the following applies:

(A) In the area of administrative services, the charter or supporting documents do not adequately:

1. Describe the structure for providing administrative services, including, at a minimum, personnel transactions, accounting and payroll that reflects an understanding of school business practices and expertise to carry out the

necessary administrative services, or a reasonable plan and time line to develop and assemble such practices and expertise.

2. For any contract services, describe criteria for the selection of a contractor or contractors that demonstrate necessary expertise and the procedure for selection of the contractor or contractors.

(B) In the area of financial administration, the charter or supporting documents do not adequately:

1. Include, at a minimum, the first-year operational budget, start-up costs, and cash flow, and financial projections for the first three years.

2. Include in the operational budget reasonable estimates of all anticipated revenues and expenditures necessary to operate the school, including, but not limited to, special education, based, when possible, on historical data from schools or school districts of similar type, size, and location.

3. Include budget notes that clearly describe assumptions on revenue estimates, including, but not limited to, the basis for average daily attendance estimates and staffing levels.

4. Present a budget that in its totality appears viable and over a period of no less than two years of operations provides for the amassing of a reserve equivalent to that required by law for a school district of similar size to the proposed charter school.

5. Demonstrate an understanding of the timing of the receipt of various revenues and their relative relationship to timing of expenditures that are within reasonable parameters, based, when possible, on historical data from schools or school districts of similar type, size, and location.

(C) In the area of insurance, the charter and supporting documents do not adequately provide for the acquisition of and budgeting for general liability, workers compensations, and other necessary insurance of the type and in the amounts required for an enterprise of similar purpose and circumstance.

(D) In the area of facilities, the charter and supporting documents do not adequately:

1. Describe the types and potential location of facilities needed to operate the size and scope of educational program proposed in the charter.

2. In the event a specific facility has not been secured, provide evidence of the type and projected cost of the facilities that may be available in the location of the proposed charter school.

3. Reflect reasonable costs for the acquisition or leasing of facilities to house the charter school, taking into account the facilities the charter school may be allocated under the provisions of Education Code section 47614.

(4) The petitioners personally lack the necessary background in the following areas critical to the charter school's success, and the petitioners do not have plan to secure the services of individuals who have the necessary background in these areas:

(A) Curriculum, instruction, and assessment.

(B) Finance and business management.

(d) For purposes of Education Code section 47605(b)(3), a charter petition that “does not contain the number of signatures required by subdivision (a)” of Education Code section 47605 shall be a petition that did not contain the requisite number of signatures at the time of its submission to a school district pursuant to Education Code section 47605(a). The State Board of Education shall not disregard signatures that may be purported to have been withdrawn or to have been determined to be invalid after the petition was denied by the school district.

(e) For purposes of Education Code section 47605(b)(4), a charter petition that “does not contain an affirmation of each of the conditions described in subdivision (d)” of Education Code section 47605 shall be a petition that fails to include a clear, unequivocal affirmation of each such condition, not a general statement of intention to comply. Neither the charter nor any of the supporting documents shall include any evidence that the charter will fail to comply with the conditions described in Education Code section 47605(d).

(f) For purposes of Education Code section 47605(b)(5), the State Board of Education shall take the following factors into consideration in determining whether a charter petition does not contain a “reasonably comprehensive” description of each of the specified elements.

(1) The description of the educational program of the school, as required by Education Code section 47605(b)(5)(A), at a minimum:

(A) Indicates the proposed charter school's target student population, including, at a minimum, grade levels, approximate numbers of pupils, and specific educational interests, backgrounds, or challenges.

(B) Specifies a clear, concise school mission statement with which all elements and programs of the school are in alignment and which conveys the petitioners' definition of an “educated person in the 21st century, belief of how learning best

occurs, and a goals consistent with enabling pupils to become or remain self-motivated, competent, and lifelong learners.

(C) Includes a framework for instructional design that is aligned with the needs of the pupils that the charter school has identified as its target student population.

(D) Indicates the basic learning environment or environments (e.g., site-based matriculation, independent study, community-based education, technology-based education).

(E) Indicates the instructional approach or approaches the charter school will utilize, including, but not limited to, the curriculum and teaching methods (or a process for developing the curriculum and teaching methods) that will enable the school's pupils to master the content standards for the four core curriculum areas adopted by the State Board of Education pursuant to Education Code section 60605 and to achieve the objectives specified in the charter.

(F) Indicates how the charter school will identify and respond to the needs of pupils who are not achieving at or above expected levels.

(G) Indicates how the charter school will meet the needs of students with disabilities, English learners, students achieving substantially above or below grade level expectations, and other special student populations.

(H) Specifies the charter school's special education plan, including, but not limited to, the means by which the charter school will comply with the provisions of Education Code section 47641, the process to be used to identify students who qualify for special education programs and services, how the school will provide or access special education programs and services, the school's understanding of its responsibilities under law for special education pupils, and how the school intends to meet those responsibilities.

(2) Measurable pupil outcomes, as required by Education Code section 47605(b)(5)(B), at a minimum:

(A) Specify skills, knowledge, and attitudes that reflect the school's educational objectives and can be assessed, at a minimum, by objective means that are frequent and sufficiently detailed enough to determine whether pupils are making satisfactory progress. It is intended that the frequency of objective means of measuring pupil outcomes vary according to such factors as grade level, subject matter, the outcome of previous objective measurements, and information that may be collected from anecdotal sources. To be sufficiently detailed, objective means of measuring pupil outcomes must be capable of being used readily to evaluate the effectiveness of and to modify instruction for individual students and for groups of students.

(B) Include the school's Academic Performance Index growth target, if applicable.

(3) The method by which pupil progress is to be measured, as required by Education Code section 47605(b)(5)(C), at a minimum:

(A) Utilizes a variety of assessment tools that are appropriate to the skills, knowledge, or attitudes being assessed, including, at a minimum, tools that employ objective means of assessment consistent with paragraph (2)(A) of subdivision (f) of this section.

(B) Includes the annual assessment results from the Statewide Testing and Reporting (STAR) program.

(C) Outlines a plan for collecting, analyzing, and reporting data on pupil achievement to school staff and to pupils' parents and guardians, and for utilizing the data continuously to monitor and improve the charter school's educational program.

(4) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement in supporting the school's effort on behalf of the school's pupils, as required by Education Code section 47605(b)(5)(D), at a minimum:

(A) Includes evidence of the charter school's incorporation as a non-profit public benefit corporation, if applicable.

(B) Includes evidence that the organizational and technical designs of the governance structure reflect a seriousness of purpose necessary to ensure that:

1. The charter school will become and remain a viable enterprise.
2. There will be active and effective representation of interested parties, including, but not limited to parents (guardians).

3. The educational program will be successful.

(5) The qualifications to be met by individuals to be employed by the school, as required by Education Code section 47605(b)(5)(E), at a minimum:

(A) Identify general qualifications for the various categories of employees the school anticipates (e.g., administrative, instructional, instructional support, non-instructional support). The qualifications shall be sufficient to ensure the health, and safety of the school's faculty, staff, and pupils.

(B) Identify those positions that the charter school regards as key in each category and specify the additional qualifications expected of individuals assigned to those positions.

(C) Specify that the all requirements for employment set forth in applicable provisions of law will be met, including, but not limited to credentials as necessary.

(6) The procedures that the school will follow to ensure the health and safety of pupils and staff, as required by Education Code section 47605(b)(5)(F), at a minimum:

(A) Require that each employee of the school furnish the school with a criminal record summary as described in Education Code section 44237.

(B) Include the examination of faculty and staff for tuberculosis as described in Education Code section 49406.

(C) Require immunization of pupils as a condition of school attendance to the same extent as would apply if the pupils attended a non-charter public school.

(D) Provide for the screening of pupils' vision and hearing and the screening of pupils for scoliosis to the same extent as would be required if the pupils attended a non-charter public school.

(7) Recognizing the limitations on admissions to charter schools imposed by Education Code section 47605(d), the means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted, as required by Education Code section 47605(b)(5)(G), shall be presumed to have been met, absent specific information to the contrary.

(8) To the extent admission requirements are included in keeping with Education Code section 47605(b)(5)(H), the requirements shall be in compliance with the requirements of Education Code section 47605(d) and any other applicable provision of law.

(9) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority, as required by Education Code section 47605(b)(5)(I), at a minimum:

(A) Specify who is responsible for contracting and overseeing the independent audit.

(B) Specify that the auditor will have experience in education finance.
(C) Outline the process of providing audit reports to the State Board of Education, California Department of Education, or other agency as the State Board of Education may direct, and specifying the time line in which audit exceptions will typically be addressed.

(D) Indicate the process that the charter school will follow to address any audit findings and/or resolve any audit exceptions.

(10) The procedures by which pupils can be suspended or expelled, as required by Education Code section 47605(b)(5)(J), at a minimum:

(A) Identify a preliminary list, subject to later revision pursuant to subparagraph (E), of the offenses for which students in the charter school must (where non-discretionary) and may (where discretionary) be suspended and, separately, the offenses for which students in the charter school must (where non-discretionary) or may (where discretionary) be expelled, providing evidence that the petitioners' reviewed the offenses for which students must or may be suspended or expelled in non-charter public schools.

(B) Identify the procedures by which pupils can be suspended or expelled.

(C) Identify the procedures by which parents, guardians, and pupils will be informed about reasons for suspension or expulsion and of their due process rights in regard to suspension or expulsion.

(D) Provide evidence that in preparing the lists of offenses specified in subparagraph (A) and the procedures specified in subparagraphs (B) and (C), the petitioners reviewed the lists of offenses and procedures that apply to students attending non-charter public schools, and provide evidence that the charter petitioners believe their proposed lists of offenses and procedures provide adequate safety for students, staff, and visitors to the school and serve the best interests the school's pupils and their parents (guardians).

(E) If not otherwise covered under subparagraphs (A), (B), (C), and (D):

(1) Provide for due process for all pupils and demonstrate an understanding of the rights of pupils with disabilities in regard to suspension and expulsion.

(2) Outline how detailed policies and procedures regarding suspension and expulsion will be developed and periodically reviewed, including, but not limited to, periodic review and (as necessary) modification of the lists of offenses for which students are subject to suspension or expulsion.

(11) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System,

or federal social security, as required by Education Code section 47605(b)(5)(K), at a minimum, specifies the positions to be covered under each system and the staff who will be responsible for ensuring that appropriate arrangements for that coverage have been made.

(12) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools, as required by Education Code section 47605(b)(5)(L), at a minimum, specify that the parent or guardian of each pupil enrolled in the charter school shall be informed that the pupils has no right to admission in a particular school of any local education agency (or program of any local education agency) as a consequence of enrollment in the charter school, except to the extent that such a right is extended by the local education agency.

(13) The description of the rights of any employees of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school, as required by Education Code section 47605(b)(5)(M), at a minimum, specifies that an employee of the charter school shall have the following rights:

(A) Any rights upon leaving the employment of a local education agency to work in the charter school that the local education agency may specify.

(B) Any rights of return to employment in a local education agency after employment in the charter school as the local education agency may specify.

(C) Any other rights upon leaving employment to work in the charter school and any rights to return to a previous employer after working in the charter school that the State Board of Education determines to be reasonable and not in conflict with any provisions of law that apply to the charter school or to the employer from which the employee comes to the charter school or to which the employee returns from the charter school.

(14) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter, as required by Education Code section 47605(b)(5)(N), at a minimum:

(A) Include any specific provisions relating to dispute resolution that the State Board of Education determines necessary and appropriate in recognition of the fact that the State Board of Education is not a local education agency.

(B) Describe how the costs of the dispute resolution process, if needed, would be funded.

(C) Recognize that, because it is not a local education agency, the State Board of Education may choose resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, provided that if the State

Board of Education intends to resolve a dispute directly instead of pursuing the dispute resolution process specified in the charter, it must first hold a public hearing to consider arguments for and against the direct resolution of the dispute instead of pursuing the dispute resolution process specified in the charter.

(D) Recognize that if the substance of a dispute is a matter that could result in the taking of appropriate action, including, but not limited to, revocation of the charter in accordance with Education Code section 47604.5, the matter will be addressed at the State Board of Education's discretion in accordance with that provision of law and any regulations pertaining thereto.

(15) The declaration of whether or not the charter school shall be deemed the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code), as required by Education Code section 47605(b)(5)(O), recognizes that the State Board of Education is not an exclusive public school employer and that, therefore, the charter school must be the exclusive public school employer of the employees of the charter school for the purposes of the Educational Employment Relations Act (Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code).

(g) A “reasonably comprehensive” description, within the meaning subdivision (f) of this section and Education Code section 47605(b)(5) shall include, but not be limited to, information that:

(1) Is substantive and is not, for example, a listing of topics with little elaboration.

(2) For elements that have multiple aspects, addresses essentially all aspects the elements, not just selected aspects.

(3) Is specific to the charter petition being proposed, not to charter schools or charter petitions generally.

(4) Describes, as applicable among the different elements, how the charter school will:

(A) Improve pupil learning.

(B) Increase learning opportunities for its pupils, particularly pupils who have been identified as academically low achieving.

(C) Provide parents, guardians, and pupils with expanded educational opportunities.

(D) Hold itself accountable for measurable, performance-based pupil outcomes.

(E) Provide vigorous competition with other public school options available to parents, guardians, and students.

NOTE: Authority cited: Sections 33031 and 47605(j)(5), Education Code. Reference: Section 47605, Education Code.

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	Linda M Lewis	319-0658
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
Charter Renewal (version 1-24-11)		

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.) The proposed regulations specify the procedures required for charter renewal and the continued eligibility for class-size reduction funding and would not impose any additional costs to the private sector.

(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 _____

ECONOMIC AND FISCAL IMPACT STATEMENT *cont.(STD. 399, Rev. 2-98)*

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.

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 _____ Governor's Budget for appropriation in Budget Act of _____
(Fiscal Year)

☐ 2. Additional expenditures of approximately $ _____ 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 _____

☐ 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 _____ election;
(DATE)

☐ 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 _____ authorized by
(FEES, REVENUE, ETC.)

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 $_____ 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. The requirement to continue eligibility for CSR funding in the proposed regulations would create unknown and potentially significant state costs, the extent of which would be dependent on the number of charter school renewals by a different authorizer and charter school participation in the CSR program.

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		TITLE
✍ Linda M. Lewis		Ed Fiscal Services Consultant
AGENCY SECRETARY[1] APPROVAL/CONCURRENCE	✍ Angela Cortez Alcala	DATE 2/11/2011
DEPARTMENT OF FINANCE[2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER ✍	DATE

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.*

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 22

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Charter Revocation and Revocation Appeals - Approve Commencement of a Third 15-Day Public Comment Period for Proposed Amendments to *California Code of Regulations,* Title 5 sections 11965, 11968.1, 11968.5.1, 11968.5.2, 11968.5.3, 11968.5.4, 11968.5.5, and 11969.1 and Authorize a Request to the Office of Administrative Law for an Extension of the 120-Day Deadline to Resubmit the Rulemaking File.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

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

- Approve the proposed changes to the proposed regulations;
- Direct that the proposed changes be circulated for a third 15-day public comment period in accordance with the Administrative Procedure Act;
- If no relevant comments to the proposed changes are received during the third 15-day public comment period, the proposed regulations with changes are deemed adopted, and the CDE is directed to complete the rulemaking package and resubmit it to the Office of Administrative Law (OAL) for approval;
- If any relevant comments to the proposed changes are received during the third 15-day public comment period, the CDE is directed to place the proposed regulations on the SBE's September 2011 agenda for action; and
- Authorize the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file.
- Authorize the CDE to submit a request to OAL extending the 120-day timeline for resubmission of the rulemaking file because the 120-day time period will expire on July 23, 2011.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At its March 2008 meeting, the SBE directed the CDE to develop regulations to clarify and make specific subdivisions (c) through (j) of California *Education Code* (*EC*) Section 47607 regarding charter revocation and the revocation appeal process. In September 2008, the CDE drafted regulations and held two workgroup meetings in October and November 2008 with stakeholder groups to discuss the draft regulations and to incorporate stakeholder comments.

In December 2008 and April 2009, the Advisory Commission on Charter Schools (ACCS) considered the draft regulations that reflected stakeholder input. At both meetings, the ACCS held a full discussion of the draft regulations and requested additional amendments and clarification.

In July 2009, the CDE made significant revisions to the proposed regulations to streamline and clarify the draft regulations, and received direction from SBE staff to develop additional regulations that address revocation pursuant to *EC* Section 47604.5, and revocation of statewide benefit charters. The CDE presented an update item to the SBE at its September 2009 meeting to inform the SBE of CDE's progress on the new proposed charter revocation regulations package.

At its January 2010 meeting, the SBE considered a proposed regulations package concerning charter revocation under *EC* sections 47607 and 47604.5(a) and (b). The SBE directed the CDE to again consult with stakeholder groups and return to the March 2010 SBE meeting with a revised regulations package that would incorporate additional stakeholder input.

The CDE held meetings with stakeholders on January 15, 2010, January 25, 2010, and February 22, 2010. The CDE incorporated a majority of the consensus views expressed during the meetings with stakeholders, as well as written comments received from stakeholders after those meetings, into the proposed regulations package.

At its May 2010 meeting, the SBE approved the commencement of the rulemaking process for this regulations package. The 45-day public comment period began on May 21, 2010, and closed on July 6, 2010. The CDE received substantive public comments and proposed changes to the regulations package. The SBE approved the proposed changes at its September 2010 meeting and directed that the package be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act. The 15-day public comment period began on October 2, 2010, and closed on October 18, 2010. The SBE approved the proposed changes at its November 2010 meeting and directed that the package be circulated for a second 15-day public comment period. The second 15-day public comment period began on November 11, 2010, and closed on November 29, 2010. A summary of the comments received and a recommendation for the adoption of the proposed regulations is included in this item.

It should be noted that the SBE also commenced the rulemaking process for a second set of charter revocation regulations. In December 2009, the SBE took action to begin

SUMMARY OF PREVIOUS (Cont.)

the rulemaking process for the adoption of regulations pursuant to subdivision (c) of *EC* Section 47604.5 that would allow for the revocation of academically low-performing charter schools. The 45-day public comment period for this regulations package began on March 20, 2010, and closed on May 14, 2010. At its July 2010 meeting, the SBE approved the commencement of a 15-day public comment period for these regulations, which began on July 19, 2010, and closed on August 3, 2010. At its September 2010 meeting, the SBE approved the commencement of a second 15-day public comment period, which began on October 2, 2010, and closed on October 18, 2010. After considering comments received during the second 15-day public comment period at its November 2010 meeting, the SBE approved the adoption of the proposed regulations and the Final Statement of Reasons, directed the CDE to submit the rulemaking file to the OAL for approval, and authorized the CDE to take any necessary ministerial action to respond to any direction or concern expressed by the OAL during its review of the rulemaking file. These regulations were filed by the OAL on January 14, 2011, and became operative on February 13, 2011.

SUMMARY OF KEY ISSUES

EC sections 47607(c) through 47607(g) provide the criteria for revocation of a school's charter by a chartering authority and the process by which a school may appeal a revocation decision to a county board of education and/or the SBE.

Through this rulemaking process, the SBE proposes to amend Article 2 and add Article 2.5 to Subchapter 19 of Chapter 11 of Division 1 of the *California Code of Regulations*, Title 5. The proposed regulations clarify and make specific the provisions of *EC* sections 47604.5 and 47607 regarding the process and timelines for revocation of a school's charter, and the appeals process up to and including the SBE.

Amendments to Article 2 provide the definitions necessary to carry out the revocation and revocation appeals process proposed in this rulemaking package.

Proposed Article 2.5 contains five new provisions that are intended to:

- Establish the procedures the CDE shall complete prior to when the State Superintendent of Public Instruction (SSPI) makes a recommendation to the SBE to take appropriate action, including, but not limited to, revocation of a school's charter under subdivisions *EC* Section 47604.5.

- Establish the procedures a chartering authority shall complete for the revocation of a school's charter pursuant to *EC* Section 47607(c).

- Establish the procedures the chartering authority shall complete for the revocation of a school's charter when a chartering authority has determined that any violation under *EC* Section 47607(c) constitutes a severe and imminent threat to the health or safety of pupils and establish the procedures for a charter

SUMMARY OF KEY ISSUES (Cont.)

school to appeal a revocation decision to a county board of education or the SBE.

- Establish the procedures for a charter school to appeal to a county board of education a district chartering authority's final decision to revoke the school's charter.

- Establish the procedures for a charter school or district chartering authority to appeal a revocation decision to the SBE.

On March 25, 2011, the OAL notified the SBE of the disapproval of the regulations package due to the following issues, which are described in detail in the Decision of Disapproval of Regulatory Action (Attachment 4):

- Failure to comply with the "clarity" standard of Government Code section 11349.1;

- Failure to adequately summarize and respond to all the public comments received regarding the proposed action;

- Documents in the rulemaking file which are defective; and

- Failure to comply with all required Administrative Procedure Act procedures.

CDE staff met with staff from the OAL to discuss these deficiencies. Because several of the remedies for these issues required substantive revision of the rulemaking file, a third 15-day public comment period is required. The SBE would have 120 days from the receipt of the Decision of Disapproval of Regulatory Action to approve the third public comment period, subsequently approve a revised Final Statement of Reasons and proposed regulations, and submit the rulemaking file to OAL.

Because the 120-day time period will expire on July 23, 2011, the CDE recommends that the SBE authorize the CDE to request an extension from the OAL.

In addition, the CDE recommends that the SBE approve the revisions to the proposed regulations and direct the CDE to circulate the proposed changes for a third 15-day public comment period. If no relevant comments to the proposed changes are received during the 15-day comment period, the CDE recommends that the SBE direct the CDE to place the proposed regulations on the SBE's September 2011 agenda for action.

FISCAL ANALYSIS (AS APPROPRIATE)

A Fiscal Impact Statement was provided as an Item Addendum at the May 2010 SBE meeting. The first Fiscal Impact Statement states that the proposed amendments to the regulations in proposed Section 11968.5 would add additional costs upon the state, as the activities identified are new to the CDE. The additional workload would be based upon the number of schools identified as in violation of *EC* Section 47604.5. It is estimated that it would cost one full-time consultant, or approximately $150,000, for every five schools identified in violation of *EC* Section 47604.5.

Due to extensive substantive edits, a second Fiscal Impact Statement is provided as Attachment 4.

ATTACHMENT(S)

Attachment 1: Addendum to Final Statement of Reasons (7 Pages)

Attachment 2: Proposed regulations (17 Pages)

Attachment 3: State of California Office of Administrative Law: Decision of Disapproval of Regulatory Action (13 Pages)

Attachment 4: Economic and Fiscal Impact Statement (4 Pages)

ADDENDUM TO FINAL STATEMENT OF REASONS

UPDATE OF THE INITIAL STATEMENT OF REASONS

Through this rulemaking process, the State Board of Education (SBE) proposes to amend Article 2 and add Article 2.5 to Subchapter 19 of Chapter 11 of Division 1 of the California Code of Regulations, Title 5. The proposed regulations clarify and make specific the provisions of Education Code section 47607, subdivisions (c) through (g), which provide the criteria for revocation of a school's charter by a chartering authority, the process by which the SBE may revoke a charter based on the recommendation of the State Superintendent of Public Instruction (SSPI) pursuant to Education Code (EC) section 47604.5, and the process by which a school may appeal a revocation decision to a county board of education and/or the SBE.

Amendments to Article 2 provide the definitions necessary to carry out the revocation and revocation appeals process proposed in this rulemaking package.

Proposed Article 2.5 contains five new provisions.

Section 11968.5.1 sets forth the procedures the CDE shall complete prior to when the SSPI makes a recommendation to the SBE to take appropriate action, including, but not limited to, revocation of a school's charter under Education Code section 47604.5.

Section 11969.1 establishes the procedures a chartering authority shall complete for the revocation of a school's charter pursuant to Education Code section 47607(c).

Section 11969.2 establishes the procedures the chartering authority shall complete for the revocation of a school's charter when a chartering authority has determined that any violation under Education Code section 47607(c) constitutes a severe and imminent threat to the health or safety of pupils and establishes the procedures for a charter school to appeal a revocation decision to a county board of education or the SBE.

Section 11969.3 establishes the procedures by which a charter school appeals a district chartering authority's final decision to revoke the school's charter to a county board of education.

Section 11969.4 establishes the procedures for a charter school or district chartering authority to appeal a revocation decision to the SBE.

After the second 15-day comment period, the following changes were made to the proposed text of the regulations and sent out for a third 15-day comment period:

- Renumbering and/or re-lettering changes were made throughout the regulations to accommodate amendments and deletions;
- "individualized education program" was changed to "IEP";
- "charter school's board or the governing entity" to "charter schools' governing

body as described in the school's charter";
- charter "authority" was changed to charter "authorizer";

These changes were made throughout the regulations for clarity and consistency. In addition, various grammatical changes were made throughout these sections.

Section 11965 is amended to add "Articles 1 and 2" in the introduction. This is necessary as these definitions also apply only to these articles.

Section 11965(e)(4) is amended to include the words "severe and imminent" in the phrase "poses a threat." This revision addresses public comment and aligns more closely with statutory language.

Section 11968.5.1(a) is amended to remove "the SBE charter liaison(s)". This is necessary because this term is not defined in current law or regulation. In addition, the written notice is to be delivered to the SBE Executive Director, who can direct it internally as needed.

Section 11968.5.2(f) is amended to remove the statement, "At any hearing concerning the revocation of a charter school, the charter school shall be allowed equal time to present an rebut prior to the close of the hearing." The removal of this language is necessary to address public comment made during the 15-day comment period and to reconcile the CDE's opinion with the proposed regulations. After the initial 45-day public comment period, the SBE directed the CDE to add this language. However, after further public comment and discussion with OAL, the CDE recommends its original opinion in this matter, which is that the SBE does not have jurisdiction over how local boards conduct their meetings.

Section 11968.5.3 is amended to remove "section 11968.5.6" because this section does not exist. In addition, to provide clarity regarding the appeals process when charter schools have been revoked due to a severe and imminent threat to pupil health or safety, and in response to public comment, this section was revised. A process that mirrors the appeal process in section 11968.5.5 and clarifies the differences in the appeal process when a charter has been revoked due to a severe and imminent threat to pupil health or safety was added.

Section 11968.5.3(d) is added to clarify that the 90-day review period begins when a Notice of Appeal "that includes the documents listed in subdivision (c) of this section" is received by the county board of education. The language "that includes the documents listed in subdivision (c) of this section" to make clear the required documentation that must accompany an appeal.

Section 11968.5.4(b) is amended to remove the word "complete" before "Notice of Appeal" and to clarify that the 90-day review period begins when a Notice of Appeal "that includes the documents listed in subdivision (a) of this section" is received by the county board of education. The words "to the county board of education" are deleted

because this is redundant in its context and by deleting will improve the subsection's clarity. Finally, the language "that includes the documents listed in subdivision (a) of this section" to make clear the required documentation that must accompany an appeal.

Sections 11968.5.5(b) through (e) are amended to provide clarity and consistency regarding the requirements for submitting documents.
Section 11968.5.5(b)(1) is amended to remove "The appellant's Notice of Appeal to the SBE, which shall include" due to redundancy of section 11968.5.5(b).

Section 11968.5.5(b)(6) is amended to replace "should" with "shall." This is necessary for consistency within this section.

Section 11968.5.5(e)(4) is amended from "appellant" to "respondent" due to a typographical error.

The NOTE in Section 11968.5.5 was amended due to at typographical error.

AMENDMENTS TO RESPONSE TO COMMENTS SUBMITTED DURING PUBLIC COMMENT PERIODS

The following responses to comments have either been amended or the comments were inadvertently not responded to in the Final Statement of Reasons.

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COLIN A. MILLER, CALIFORNIA CHARTER SCHOOLS ASSOCIATION
Original Response and Comment

Comment B3, Section 11969.2: Mr. Miller states, "An authorizer that finds that a violation constitutes a 'severe and imminent threat to the health or safety of its pupils' may only bypass the Notice to Cure provisions in Education Code section 47607(d). The provisions of EC section 47607(e) still apply to any charter school that is being considered for revocation." All charter schools being considered for revocation should receive a Notice of Intent to Revoke and have a public hearing regarding the allegations prior to the authorizer's action to revoke.
Reject: The CDE disagrees with Mr. Miller's interpretation of the statute. As such, the CDE rejects the proposed edits as inconsistent with the revocation procedures set forth in Education Code section 47607.

Amended Response:
Reject: The CDE disagrees with Mr. Miller's interpretation of the statute. EC section 47607(e) applies to situations when a chartering authority revokes a charter pursuant to subdivision (d) of this section. EC section 47607(d) excepts from its provisions violations constituting a severe and imminent threat to the health and safety of pupils. As such, a Notice of Intent to Revoke and a public hearing may not be required.

*** * * * * * * * * ***

Comment: "Page 2, line 21: Inclusion of 'severe' is necessary to more closely align with the statutory language."
Accept: The CDE has revised this language as to align with the statutory language.

*** * * * * * * * * ***

Comment: "Page 5, line 10: We suggest addition of the 'charter authority' to assure all affected parties are notified. Conforming amendments are suggested in other places in the draft."
Reject: The CDE believes that this exceeds the requirements for revocation set forth in Education Code section 47607.

*** * * * * * * * * ***

Comment: "Page 7, line 8: We suggested deleting the word 'detailed' as this is a subjective and unnecessary qualifier with no basis in the law. We are concerned that under this language, a charter authority could simply reject a response as not being 'detailed' enough. In addition, the chartering authority isn't subject to the same 'detailed' requirement in its Notice of violation, so the charter could be put in a position of trying to provide a 'detailed' response to a very vague Notice. Charter schools should be able to gauge the appropriate level of detail necessary to be compelling to its authorizer. Therefore, 'detailed' should be deleted from this phrase."
Reject: The CDE finds that a common definition of "detailed" (as found in the American Heritage dictionary to be "having many details" or "thorough in the treatment of details") provides direction regarding the expectations for the charter's response. In addition, the appeals process provides a recourse for charter schools that have been unreasonably rejected due to lack of detail.

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Comment: "Page 8, line 6-12, page 10, line 26-32: In the pending legal challenge in the 'Today's Fresh Start vs. Los Angeles County Board of Education' the trial court found that the revocation hearing must be impartial by a 3rd party, giving the charter school an opportunity to refute the evidence. This section could be impacted by the outcome of the LACOE v. TFS legal case. We suggest the addition of this language to address some of the issues raised in that case as they relate to sufficient notice and receipt of all evidence against the charter, and the opportunity to respond to the evidence presented to the board. We believe this language also is consistent with the intent of this law and these regulations to ensure fair and transparent due process in this matter.
Reject: These regulations reflect CDE's position on revocation. The CDE does not write regulations based on pending litigation.

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Original Comment and Response:

Comment B29, Section 11969.3(a): Mr. Miller suggests adding section (8) to read, "If the school was revoked pursuant to 11969.2, provides all information the chartering authority relied on in making the determination of a 'Severe and Imminent Threat to the Health and Safety of the pupils'."
Reject: The CDE believes that the proposed regulations already provide a clear appeal process for charter schools that are revoked pursuant to section 11969.2. It is clear in section 11969.2 that the appeal process shall follow the provisions in proposed sections 11969.3, 11969.4, and 11969.5.

Amended Response:
Partially Accept: The CDE has revised section 11968.5.3 to include a process for charter schools that have been revoked due to severe and imminent threat to the health and safety of pupils. This process mirrors the process set forth in section 11968.5.5, but is adapted to address the difference in the documents that would be available if the charter were revoked due to severe or imminent threat to pupils.

*** * * * * * * * * ***

Comment: "Page 11, line 4: We suggest deleting the word 'complete' as this is a subjective and unnecessary qualifier with no basis in the law. We are concerned that under this language, a Notice of Appeal could be rejected simply for not being 'complete' and not receive the necessary due process considerations. Charter schools should be able to gauge the appropriate level of detail necessary to be compelling to the entity receiving the appeal."
Accept: The CDE has revised this section to remove the word "complete" and to specify that the Notice of Appeal must include all of the items as required in subdivision (a) of this section.

* * * * * * * * * *

Original Comment and Response:

Comment B30, Section 11969.3: Mr. Miller suggests adding a new subdivision (c) to read, "The county board shall hold a public hearing to consider the appeal within 60 days of receipt of a Notice of Appeal. No later than 10 days before the public hearing, the county board shall provide the charter school with all documents and materials that will be used to consider the appeal. At the public hearing, the county board shall present the evidence and representatives of the charter school and of the general public shall have an equal opportunity to address the board regarding the allegations and the evidence presented."
Reject: The suggested new section exceeds the statutory language in Education Code section 47607(f)(3) that provides a county board of education the option to not act on an appeal of a charter revocation.

Amended Response:
Reject: The suggested new section exceeds the statutory language in Education Code section 47607(f)(3) that provides a county board of education the option to not act on an appeal of a charter revocation. Therefore, any language that hinges upon the county board taking action also exceeds the statutory authority. In addition, the CDE has no jurisdiction over how local boards conduct their meetings. California Education Code section 47608 specifies that all meetings of the governing boards of the school district and the county board of education shall comply with the Ralph M. Brown Act (Brown Act). Section 54954.3(b) of the Brown Act authorizes these bodies to adopt regulations to assist in processing comments from the public and specifies that the bodies may establish procedures for public comment as well as specifying reasonable time limitations on particular topics or individual speakers.

* * * * * * * * * *
Comment: "Page 12, lines 29-31, and page 13, lines 1-29. It is unclear why this additional back and forth is included in the state board appeal, but not at the county level. While we have not suggested specific amendments to this section, in response to our concern noted in item #3 above, we suggest the board seriously consider the value of this additional process against the timeliness of a decision. Because the state board already has the benefit of the county review, it seems it may be able to reach its decision in a timelier manner and the additional timelines and back and forth could be eliminated from the regulations altogether. While we support the opportunity for all parties to provide information to the board, we believe that a much simpler and streamlined approach could achieve that goal and lead to a fair decision sooner.
Reject: The CDE believes that the SBE is the final level of appeal and this timeline allows for a thorough review of all evidence presented.

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PAUL C. MINNEY – MIDDLETON, YOUNG & MINNEY, LLP

Original Comment and Response

Comment C6, Section 11965(d)(1) and (f)(2): Mr. Minney suggests adding "and reviewed" after "upon" and inserting "in an open public meeting" after "chartering authority."
Reject: The CDE believes that the proposed regulations clearly define the Notice of Intent to Revoke as a written notice, which clarifies the statutory language. When a governing board of a school district or a county board of education acts on an item, it must do so in public meeting and properly noticed in accordance with the Brown Act, and as required by Education Code section 47608. The CDE believes that adding Mr. Minney's proposed comment would exceed the requirements of the Brown Act and Education Code section 47608.

Amended Response:
Reject: The CDE believes that the proposed regulations clearly define the Notice of Intent to Revoke **and Notice of Violation** as ~~a~~ written notice**s**, which clarifies the statutory language. When a governing board of a school district or a county board of education acts on an item, it must do so in public meeting and properly noticed in accordance with the Brown Act, and as required by Education Code section 47608. The CDE believes that adding Mr. Minney's proposed comment would exceed the requirements of the Brown Act and Education Code section 47608.

STEPHANIE MEDANO FARLAND – CALIFORNIA SCHOOL BOARDS ASSOCIATION

Original comment and Response

Comment, Section 11968.5.2(f): Ms Farland writes that proposed section 11968.5.2(f) conflicts with existing Brown Act provisions that authorize the governing board to adopt reasonable regulations regarding the conduct of its meetings. She notes that the proposed section specifies public hearing requirements that go beyond the requirement in the Brown Act. She also notes that the additional requirements would be deemed a reimbursable state mandate.
Reject: The proposed section requires a chartering authority to provide the charter school with time equal to that of the chartering authority to present arguments and rebut arguments at any hearing related to charter revocation. This is necessary to ensure that a charter school has a reasonable opportunity to present its case before a chartering authority at the public hearing, and protects the due process interests of a charter school that is facing the possible revocation of its charter.

Amended Response:
Accept: The CDE revised section 11968.5.2(f) to remove the provision for equal time.

5-18-11

- The State Board of Education has illustrated changes to the original text in the following manner: text originally proposed to be added is underlined; text proposed to be deleted is displayed in ~~strikeout~~.
- The 15-day text proposed to be added is in "**bold underline**", deleted text is displayed in "~~**bold strikeout**~~".
- The 2nd 15-day text proposed to be added is in "**bold double underline**"; deleted text is displayed in "~~**bold double strikethrough**~~".
- The 3rd 15-day text proposed to be added is in "underlined and shaded", deleted text is "~~strikeout and shaded~~."

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 11. Special Programs

Subchapter 19. Charter Schools

Article 2. General Provisions

§11960. Regular Average Daily Attendance for Charter Schools.

…

(c)(1) Beginning in 2004-05, a pupil who is over the age of 19 years may generate attendance for apportionment purposes in a charter school on fewer than 175 calendar days during that fiscal year.

(A) The pupil was enrolled in a public school in pursuit of a high school diploma (or, if a student in special education, an individualized education program (IEP)) or while 19 years of age and, without a break in public school enrollment since that time, is enrolled in the charter school and is making satisfactory progress towards award of a high school diploma (or, if a student in special education, satisfactory progress in keeping with an ~~individualized education program~~ IEP consistent with the definition of satisfactory progress set forth in subdivision ~~(b)~~(h) of ~~S~~section 11965.

…

§ 11965. Definitions.

For the purposes of ~~this~~ Articles 1, 2 and ~~Article~~ 2.5, the following definitions shall apply:

(a) "Chartering authority" means the entity that grants a school's charter and includes the following:

(1) "County chartering authority" means a county board of education that has

granted a school's charter. In making specific the provisions of Education Code section 47607(g)(1), these regulations use the term "county chartering authority" where Education Code section 47607(g)(1) uses the term "county office of education."

(2) "District chartering authority" means the governing board of a school district that has granted a school's charter. In making specific the provisions of Education Code section 47607(f)(1), these regulations use the term "district chartering authority" where Education Code section 47607(f)(1) uses the term "school district."

(3) "State chartering authority" is the State Board of Education (SBE) when the SBE has granted a school's charter. The SBE acts as a state chartering authority when it approves the operation of a charter school that has been denied by a local educational agency (LEA) and when it approves the operation of a state charter school pursuant to Education Code section 47605.8.

(b) "Final Decision" means the final written decision of the chartering authority to either revoke or decline to revoke a school's charter.

(c) "Notice of Appeal ~~**to the State Board of Education**~~" means a written document notifying the **county board of education or the** SBE**, as appropriate,** that the **charter school's governing body as described in the school's charter, or the district chartering authority** ~~**entity noticing the SBE**~~ is appealing the decision to revoke or reverse the revocation of a school's charter.

(d) "Notice of Intent to Revoke" means the written notice of a chartering authority's decision to pursue revocation of a school's charter due to the charter school's failure to remedy one or more violations identified in the Notice(s) of Violation. This notice shall identify all of the following:

(1) All evidence relied upon by the chartering authority in determining that the charter school failed to remedy a violation pursuant to this section;

(2) The date and time at which the chartering authority will hold a public hearing concerning revocation, which shall be held no more than 30 calendar days after the chartering authority issues this notice.

(e) "Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety" means the written notice of a chartering authority's decision to revoke a school's charter due to a severe and imminent threat to the health or safety of the pupils. This notice shall identify all of the following:

(1) The location of the facility;

(2) The provisions of Education Code section 47607(c) that the charter school has violated and a description of the emergency or urgent conditions that ~~has~~ have resulted from this violation;

(3) A description of how the condition(s) identified in subdivision (2) severely and imminently threatens the health or safety of pupils.

(4) For purposes of this article, “a severe and imminent threat to pupil health or safety” occurs when a charter school’s structures, systems or practices are in a condition that poses a severe and imminent threat to the health or safety of pupils while at school, and where the charter school has made no reasonable attempt to remedy the condition or no remedy exists to cure the condition.

(5) For purposes of this article, “a severe and imminent threat to pupil health or safety” does not include any cosmetic or nonessential repairs or severe threats for which the school has initiated corrective action and has removed the pupils from any immediate danger.

(f) “Notice of Violation” means the written notice of a chartering authority’s identification of one or more specific alleged violations by the charter school based on the grounds for revocation specified in Education Code section 47607(c). This notice shall identify all of the following:

(1) The charter school’s alleged specific material violation of a condition, standard, or procedure set out in the school’s charter pursuant to Education Code section 47607(c)(1); the specific pupil outcome(s) identified in the school’s charter that the charter school allegedly failed to meet or pursue pursuant to Education Code section 47607(c)(2); the charter school’s alleged fiscal mismanagement or specific failure to follow generally accepted accounting principles pursuant to Education Code section 47607(c)(3); or the specific provision(s) of law that the charter school allegedly failed to follow pursuant to Education Code section 47607(c)(4), as appropriate.

(2) All evidence relied upon by the chartering authority in determining the charter school engaged in any of the acts or omissions identified in subdivision(f)(1) **including the date and duration of the alleged violation(s), showing the violation(s) is/are both material and uncured, and that the alleged violation(s) occurred within a reasonable period of time before a notice of violation is issued**; and

(3) The period of time that the chartering authority has concluded is a reasonable period of time for the charter school to remedy **or refute** the identified violation(s). In identifying the time period that will serve as the charter school's reasonable opportunity to remedy the identified violation(s), the chartering authority shall consider the amount of time reasonably necessary to remedy each identified violation, which may include the charter school's estimation as to the anticipated remediation time.

(g)~~(a)~~ "Private school" as that term is used in Education Code section 47602(b) means a school that meets the requirement set forth in Education Code sections 48222 and 48223.

(h)~~(b)~~ For each charter school, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted progress (1) towards completion, with passing grades, of the substance of the course of study that is required for graduation from a non-charter comprehensive high school of the school district that authorized the charter school's charter, that the pupil has not yet completed, (2) at a rate that is at least adequate to allow the pupil to successfully complete, through full-time attendance, all of that uncompleted coursework within the aggregate amount of time assigned by the chartering agency for the study of that particular quantity of coursework within its standard academic schedule. If the chartering ~~agency~~ authority is not a school district having at least one non-charter comprehensive high school, the applicable high school graduation requirements and associated time assignments shall be those for the comprehensive high school(s) of the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates.

For individuals with exceptional needs, as defined in Education Code section 56026, "satisfactory progress," as that term is used in Education Code section 47612, means uninterrupted maintenance of progress towards meeting the goals and benchmarks or short-term objectives specified in his or her individualized education program made pursuant to ~~U.S. Code, Title~~ 20 U.S.C.~~,~~ Section 1414(d) until high school graduation requirements have been met, or until the pupil reaches an age at which special education services are no longer required by law.

(i) "School's charter" is the document approved by the chartering authority, including any material revisions that have been approved by the chartering authority.

(j) "Statewide benefit charter" is a charter school authorized by the SBE to operate at multiple sites throughout the state pursuant to Education Code section 47605.8. In making specific the provisions of Education Code section 47605.8, these regulations use the term "statewide benefit charter" where Education Code section 47605.8 uses the term "state charter school."

NOTE: Authority cited: Sections 33031, 47602~~(b)~~ and 47612~~(b)~~, Education Code. Reference: Sections 47602~~(b)~~, 47604.5, 47605.8, 47607 and 47612~~(b)~~, Education Code; and 20 U.S.C. Section 1414(d)~~, Title 20, U.S. Code~~.

Article 2.5. Establishment and Revocation

§ ~~11969.~~ 11968.1. Numbering of Charter School Petitions.

(a) In accordance with subdivision (a) of section 47602 of the Education Code, the California Department of Education (CDE), on behalf of the ~~State Board of Education~~ SBE, shall establish and administer a numbering system to track the total number of charter schools authorized to operate in the state, based on the chronological order of the receipt of a complete charter petition and notification of charter approval by a local educational agency (LEA) or, in the case of a charter petition approved by the ~~State Board of Education~~ SBE, the date and time of the ~~State Board's~~ SBE's approval.

(b) When the ~~State Board of Education~~ SBE approves a charter petition or receives notice that a charter petition has been approved by a ~~local education agency~~ LEA, the ~~State Board of Education~~ SBE shall assign a number to that charter petition in accordance with section 47602(a)(1) of the Education Code.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 47602, Education Code.

§ 11968.5.1. Revocation of, or Other Action Related to, a Charter by the State Board of Education Upon Recommendation by the State Superintendent of Public Instruction Pursuant to Education Code sections 47604.5(a) and (b).

(a) Prior to making a recommendation to the SBE under Education Code sections 47604.5(a) and (b), the SSPI shall deliver a written notice to the charter school**'s governing body as described in the school's charter ~~board or governing entity,~~** ~~the SBE charter liaison(s)~~ and the SBE Executive Director, **~~as described in the~~**

~~school's charter~~ which identifies one or more specific alleged violations by the charter school based on the grounds specified in Education Code sections 47604.5(a) and (b). This notice shall identify all of the following:

(1) ~~T~~the charter school's alleged gross financial mismanagement that jeopardizes the financial stability of the charter school pursuant to Education Code section 47604.5(a); or the charter school's alleged illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school pursuant to Education Code section 47604.5(b);

(2) ~~A~~all evidence relied upon by the SSPI in determining the charter school engaged in any of the acts or omissions identified in subdivision(a)(1); and

(3) ~~T~~the period of time that will serve as the opportunity to remedy **or refute** the identified violation(s) by the charter school**'s governing body as ~~board or governing entity~~** described in the school's charter.

(b) Upon receipt of a written notice, the charter school**'s governing body as ~~board or governing entity~~** described in the school's charter, if it chooses to respond, shall take the following actions:

(1) Submit to the SSPI a detailed, written response to each identified violation which shall include the refutation or remedial action taken by the charter school**'s governing body as ~~board or governing entity~~** described in the school's charter, specific to each identified violation. The written response shall be due by the end of the remedy period identified in the written notice.

(2) Attach to its written response, supporting evidence of remedial action, if any, including written reports, statements, and other appropriate documentation.

(c) After conclusion of the remedy period, the SSPI shall evaluate the response of the charter school's ~~board or the~~ governing ~~entity~~ body as described in the school's charter, if submitted, and shall take one of the following actions:

(1) Make a recommendation to the SBE to take appropriate action, including but not limited to, revocation of the school's charter, and provide timely written notice of such action within 30 calendar days to the charter school**'s governing body as ~~board or governing entity~~** described in the school's charter; or

(2) Discontinue action and provide written notice of such action to the charter school**'s governing body as ~~board or the governing entity~~** described in the school's

charter within 10 calendar days.

(d) In making a recommendation to the SBE to take appropriate action, including but not limited to, revocation of the school's charter, the SSPI shall present written findings to the SBE at the next regularly scheduled board meeting.

NOTE: Authority: Section 33031, Education Code. Reference: Sections 47604.5 and 47607, Education Code.

§ ~~11969.1~~. 11968.5.2. Charter Revocation.

This section sequentially sets forth procedures the chartering authority **and the charter school's governing** ~~board~~ body as described in the school's charter shall complete for the revocation of a school's charter pursuant to Education Code section 47607 except for charter revocation.

(a) At least 72 hours prior to any board meeting in which a school board will consider issuing a Notice of Violation, the charter authorizer shall provide the charter school with notice and all relevant documents related to the proposed action.

(b)~~**(a)**~~ The chartering authority shall deliver a Notice of Violation to the charter school**'s governing body as** ~~**board or governing entity**~~ described in the school's charter.

(c)~~**(b)**~~ Upon receipt of a Notice of Violation, the charter school**'s governing body** ~~**board or governing entity**~~ as described in the school's charter, if it chooses to respond, shall take the following actions:

(1) Submit to the chartering authority a detailed, written response addressing each identified violation which shall include the refutation**,** ~~**or**~~ remedial action taken**, or proposed remedial action** by the charter school specific to each alleged violation. The written response shall be due by the end of the remedy period identified in the Notice of Violation.

(2) Attach to its written response supporting evidence of the refutation, ~~**or**~~ remedial action, **or proposed remedial action,** if any, including written reports, statements, and other appropriate documentation.

(d)~~**(c)**~~ After conclusion of the reasonable opportunity to remedy, the chartering authority shall evaluate the response of the charter school**'s governing body as** ~~**board**~~

~~**or governing entity**~~ described in the school's charter response to the Notice of Violation and any supporting evidence, if submitted, and shall take one of the following actions:

(1) If the chartering authority has substantial evidence that the charter school has failed to refute to the chartering authority's satisfaction, or remedy a violation identified in the Notice of Violation, continue revocation of the school's charter by issuing a Notice of Intent to Revoke to the charter school**'s governing body as** ~~**board or governing entity**~~ described in the school's charter; or

(2) Discontinue revocation of the school's charter and provide timely written notice of such action to the charter school**'s governing body as** ~~**board or governing entity**~~ described in the school's charter.

(e)~~**(d)**~~ If the chartering authority does not act, as specified in subdivision **(d)**~~**(c)**~~, within 60 calendar days of the conclusion of the remedy period specified in the Notice of Violation, **the revocation process is terminated and** the Notice of Violation is void.

(f)~~**(e)**~~ On the date and time specified in the Notice of Intent to Revoke, the chartering authority shall hold a public hearing concerning revocation. No more than 30 calendar days after the public hearing (or 60 calendar days by written mutual agreement with the charter school) the chartering authority shall issue a Final Decision. ~~**At any hearing concerning the revocation of a charter school, the charter school shall be allowed equal time to present and rebut prior to the close of the hearing.**~~

(g)~~**(f)**~~ The chartering authority shall provide a copy of the Final Decision to the CDE and its county board of education (unless the county board of education is also the chartering authority), within 10 calendar days of issuing the Final Decision.

(h)~~**(g)**~~ If the chartering authority does not act to issue a Final Decision within the timeframe specified in subdivision **(f)**~~**(e)**~~, **the revocation process is terminated and** the Notice of Intent to Revoke is void.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32 and 47607, Education Code.

§ 11968.5.3 ~~**11969.2**~~**. Charter Revocation When There is a Severe and Imminent Threat to the Health or Safety of Pupils and Appeal of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to a**

County Board of Education and the State Board of Education.

This section sets forth procedures the chartering authority shall complete for the revocation of a school's charter when the chartering authority has determined that any violation under Education Code section 47607(c) constitutes a severe and imminent threat to the health or safety of pupils and the procedures that a charter school and county office of education and SBE must follow if the charter school elects to appeal a chartering authority's Final Decision to revoke the school's charter.

(a) If there is a severe and imminent threat to pupil health or safety, the chartering authority is exempt from the requirements of section ~~**11969.1**~~ **11968.5.2** and may immediately revoke the school's charter by approving and delivering a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety to the charter school**'s governing body as** ~~**board or governing entity**~~ described in the school's charter, the county board of education (unless the county board of education is also the chartering authority), and the CDE.

(b) Following the approval and delivery of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety by the chartering authority ~~**LEA**~~ ~~**local educational agency**~~, the charter school's governing body as described in the school's charter may appeal to the county board of education or the SBE, as applicable, pursuant to Education Code sections 47607(f) and (g) ~~and sections~~ ~~**11968.5.4**, **11968.5.5**~~ ~~**11969.3**~~, ~~**11969.4**~~ ~~and~~ ~~**11968.5.6**~~ ~~**11969.5**~~.

(c) In an appeal to a county board of education, within 30 calendar days of receipt of a Final Decision revoking the school's charter, the charter school's governing body as described in the school's charter shall approve and deliver a written Notice of Appeal to the county board of education that:

(1) includes a copy of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety issued pursuant to this article except that the charter school shall not be responsible for providing these documents if the chartering authority did not provide them to the charter school as required in this section;

(2) includes evidence of the final vote of the chartering authority, if available;

(3) includes all evidence relied upon by the chartering authority in determining that a violation of section 11965(e) existed;

(4) includes minutes of any public meeting at which the chartering authority

considers or makes its decision to revoke the school's charter, if available;

(5) includes a written statement explaining why the charter school does not believe the district chartering authority's factual findings are supported by substantial evidence; and

(6) identifies any procedural omissions or errors the charter school alleges to have occurred in the revocation process.

(d) If the county board of education does not issue a written decision that explains whether, in the county board of education's judgment, the district chartering authority's factual findings are supported by substantial evidence within 90 calendar days of receiving a Notice of Appeal that includes the documents listed in subdivision(c) of this section, the district chartering authority's decision is upheld, pending any further appeal.

(e) In determining whether the district chartering authority's factual findings are supported by substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school's governing body as described in the school's charter a Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety, a public hearing, and Final Decision pursuant to Articles 2 and 2.5 and Education Code sections 47607(c) through (e), inclusive.

(f) The county board of education shall also consider whether an alleged procedural deficiency by the chartering authority negatively impacted the charter school's ability to refute or remedy the alleged violation.

(g) The county board of education shall provide the CDE and the chartering authority a copy of its written decision within 10 calendar days of its action.

(h) If the district chartering authority or the school's governing body as described in the school's charter elects to appeal to the SBE, the appellant shall approve and deliver a written Notice of Appeal to the SBE within 30 calendar days following the final decision by the county board of education, or within 30 calendar days upon the expiration of 90 calendar days pursuant to section 11968.5.4(b), or within 30 calendar days of a county chartering authority's Final Decision.

(i) The appellant shall, at the same time it delivers a Notice of Appeal to the SBE, deliver to the SBE the following documents that shall be individually and sequentially numbered, one number per page, and be delivered to the respondent and the county

board of education, if applicable, within five calendar days of delivery to the SBE:

(1) copies of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety, the Final Decision, and the Notice of Appeal delivered to the county board of education, and the county board of education's written decision, as applicable;

(2) evidence of the final vote of the chartering authority, if available;

(3) evidence relied upon by the chartering authority in determining that a violation of section 11965(e) existed; and

(4) minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter, if available.

(j) At the same time the appellant submits its Notice of Appeal to the SBE, the appellant shall also submit to the SBE a written argument in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the procedural and substantive facts limited to matters in the record;

(2) a summary of the arguments in support of the appellant's position that the chartering authority and/or the county board of education erred in its decision; and

(3) specific citations to the administrative record in support of each argument presented.

(k) If the respondent chooses to submit a written opposition to the SBE, it must do so within 30 calendar days of the delivery of the appellant's written argument to the SBE. This written argument shall be in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the procedural and substantive facts limited to matters in the record as submitted to the chartering authority and the county board of education, as appropriate;

(2) a summary of the arguments in support of the respondent's position that the chartering authority and/or the county board of education did not err in its decision; and

(3) specific citations to the administrative record in support of each argument

presented.

(l) Within 15 calendar days of the delivery of the respondent's written argument to the SBE, the appellant may submit to the SBE a written reply to the respondent's written argument in the form of a brief or letter. If submitted, this written argument shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) a summary of the arguments refuting the arguments raised in the respondent's opposition; and

(2) specific citations to the administrative record in support of each argument presented.

(m) If the SBE does not take action within 120 calendar days of receipt of the appellant's written argument, if submitted pursuant to subdivision (j); or within 150 days of receipt of the respondent's written opposition, if submitted pursuant to subdivision (k); or within 165 days of receipt of the appellant's written reply, if submitted pursuant to subdivision (l); whichever is later, the appellant is deemed to have exhausted its administrative remedies.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32 and 47607, Education Code.

§ 11968.5.4 ~~11969.3~~. Appeal of a District Charter Revocation to a County Board of Education.

This section establishes the procedures that a charter school and county office of education must follow if the charter school elects to appeal to a county board of education a district chartering authority's Final Decision to revoke the school's charter.

(a) Within 30 calendar days of receipt of a Final Decision revoking the school's charter, the charter school**'s governing body as ~~board or governing entity~~** described in the school's charter, shall approve and deliver a written Notice of Appeal to the county board of education that:

(1) Includes a copy of the Notice of Violation, Notice of Intent to Revoke and the Final Decision issued pursuant to this article except that the charter school shall not be responsible for providing these documents if the chartering authority did not provide ~~it~~ them to the charter school as required in section **~~11969.1~~ 11968.5.2**;

(2) Includes evidence of the final vote of the chartering authority**, if available**;

(3) Includes all evidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to remedy one or more violations identified in the Notice(s) of Violation;

(4) Includes all evidence and correspondence submitted by the charter school**'s governing body as** ~~**board or governing entity**~~ described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke;

(5) Includes minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter**, if available**;

(6) Includes a written statement explaining why the charter school does not believe the district chartering authority's factual findings are supported by substantial evidence; and

(7) Identifies any procedural omissions or errors the charter school alleges to have occurred in the revocation process.

(b) If the county board of education does not issue a written decision that explains whether, in the county board of education's judgment, the district chartering authority's factual findings are supported by substantial evidence within 90 calendar days of receiving a ~~complete~~ Notice of Appeal ~~to the county board of education~~ that includes the documents listed in subdivision(a) of this section, the district chartering authority's decision is upheld, pending any further appeal.

(1) In determining whether the district chartering authority's factual findings are supported by substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school**'s governing body as** ~~**board or governing entity**~~ described in the school's charter a Notice of Violation, a reasonable opportunity to remedy the identified violation(s), a Notice of Intent to Revoke, a public hearing, and Final Decision, pursuant to Articles 2 and 2.5 and Education Code sections 47607(c) through (e), inclusive.

(2) If the charter school submits a response to the Notice of Violation pursuant to **section** ~~**11969.1**~~ **11968.5.2**~~(b)~~(c), the county board of education shall, in determining whether the district chartering authority's factual findings are supported by substantial evidence, consider whether the charter school complied with the procedures set forth in that section.

(3) The county board of education shall also consider whether an alleged procedural deficiency negatively impacted the charter school's ability to refute or remedy the alleged violation or the chartering authority's ability to comply with its procedural obligations or authorizing duties.

(c) The county board of education shall provide the CDE and the chartering authority a copy of its written decision within 10 calendar days of ~~**approval**~~ **its action**.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 47604.32 and 47607, Education Code.

§ 11968.5.5 ~~11969.4~~. Appeal of Charter Revocation to the State Board of Education and Submission of the Administrative Record.

(a) If the district chartering authority or the charter school**'s governing body as** ~~**board or governing entity**~~ described in the school's charter elects to appeal to the SBE, the appellant shall approve and deliver a written Notice of Appeal to the ~~**State Board of Education to the**~~ SBE within 30 calendar days of receiving a written decision by the county board of education, upon the expiration of 90 calendar days pursuant to section ~~**11969.3**~~ **11968.5.4**(b), or a county chartering authority's Final Decision.

(b) The appellant shall, at the same time it delivers a Notice of Appeal to the ~~**State Board of Education**~~ **SBE**, deliver to the SBE the following ~~information~~ documents that shall be individually and sequentially numbered, one number per page, and be delivered to the respondent and the county board of education, if applicable, within five calendar days of delivery to the SBE:

(1) ~~The appellant's Notice of Appeal to the **State Board of Education SBE,** which shall include~~ copies of the Notice of Violation, Notice of Intent to Revoke, the Final Decision, the Notice of Appeal, and the county board of education's written decision, as applicable;

(2) ~~E~~evidence of the final vote of the chartering authority **if available**;

(3) ~~E~~evidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to refute to the chartering authority's satisfaction or remedy one or more violations identified in the Notice(s) of Violation;

(4) ~~E~~evidence and correspondence submitted by the charter school**'s governing**

body as ~~board or governing entity~~ described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke; and

(5) ~~M~~minutes of any public meeting at which the chartering authority considers or makes its decision to revoke the school's charter **if available**.

~~(6) These documents should be individually and sequentially numbered, one number per page.~~

~~**(7) Assurance that all of the preceding documentation will be delivered to the respondent and the county board of education, if applicable, within five calendar days of delivery to the SBE.**~~

(c) ~~**Within 30 calendar days of submitting**~~ **At the same time the appellant submits** its Notice of Appeal to the ~~**State Board of Education**~~ **SBE,** the appellant shall **also** submit to the SBE a written argument in the form of a brief or letter that shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following~~. This written argument shall~~:

(1) ~~contain~~ a summary of the procedural and substantive facts limited to matters in the record;

(2) ~~contain~~ a summary of the arguments in support of the appellant's position that the chartering authority and/or the county board of education erred in its decision; and

(3) ~~contain~~ specific citations to the administrative record in support of each argument presented~~;~~.

~~(4) be individually and sequentially numbered, one number per page; and~~

~~(5) be delivered to the respondent within five calendar days of delivery to the SBE.~~

(d) If the respondent chooses to submit a written opposition to the SBE, it must do so within 30 calendar days of the delivery of the appellant's written argument to the SBE. This written opposition shall be in the form of a brief or letter ~~and~~ that shall be individually and sequentially numbered, one number per page; be delivered to the appellant within five calendar days of delivery to the SBE; and contain the following:

(1) ~~contain~~ a summary of the procedural and substantive facts limited to matters in the record as submitted to the chartering authority and the county board of education, as appropriate;

(2) ~~contain~~ a summary of the arguments in support of the respondent's position that

the chartering authority and/or the county board of education did not err in its decision; and

(3) ~~contain~~ specific citations to the administrative record in support of each argument presented~~:~~.

~~4) be individually and sequentially numbered, one number per page; and~~

~~(5) be delivered to the appellant within five calendar days of delivery to the SBE.~~

(e) Within 15 calendar days of the delivery of the respondent's written argument to the SBE, the appellant may submit to the SBE a written reply to the respondent's written argument in the form of a brief or letter. If submitted, this written argument shall be individually and sequentially numbered, one number per page; be delivered to the respondent within five calendar days of delivery to the SBE; and contain the following:

(1) ~~contain~~ a summary of the arguments refuting the arguments raised in respondent's opposition; and

(2) ~~contain~~ specific citations to the administrative record in support of each argument presented;

~~(3) be individually and sequentially numbered, one number per page; and~~

~~(4) be delivered to the appellant within five calendar days of delivery to the SBE.~~

(f) If the SBE does not take action within 120 calendar days of ~~following the~~ receipt of the appellant's written argument, if submitted pursuant to subdivision (c); or within 150 days of ~~following the~~ receipt of the respondent's written opposition, if submitted pursuant to subdivision (d); or within 165 days of ~~following the~~ receipt of the appellant's written reply, if submitted pursuant to subdivision (e); whichever is later, the appellant is deemed to have exhausted its administrative remedies.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section~~s 47604.5 and~~ 47607, Education Code.

Article 3. Facilities for Charter Schools.

§ 11969.1 ~~11969.10~~. Purpose and Stipulation.

(a) This article governs provision of facilities by school districts to charter schools under Education Code section 47614.

(b) If a charter school and a school district mutually agree to an alternative to specific compliance with any of the provisions of this article, nothing in this article shall

prohibit implementation of that alternative, including, for example, funding in lieu of facilities in an amount commensurate with local rental or lease costs for facilities reasonably equivalent to facilities of the district.

NOTE: Authority cited: Sections 33031 and 47614~~(b)~~, Education Code. Reference: Section 47614, Education Code.

5-11-11 [California Department of Education]

State of California
Office of Administrative Law

In re:
Board of Education

Regulatory Action: Title 5
California Code of Regulations

Adopt sections: **11968.5.1, 11968.5.2, 11968.5.3, 11968.5.4, 11968.5.5**
Amend sections: **11965, 11969 (renumbered 11968.1), 11969.1, 11969.2 (renumbered 11969.11), 11969.3 (renumbered 11969.12), 11969.4 (renumbered 11969.13), 11969.5 (renumbered 11969.14), 11969.6 (renumbered 11969.15), 11969.7 (renumbered 11969.16), 11969.8 (renumbered 11969.17), 11969.9 (renumbered 11969.18), 11969.10 (renumbered 11969.19), and 11969.11 (renumbered 11969.20)**

DECISION OF DISAPPROVAL OF REGULATORY ACTION

Government Code Section 11349.3

OAL File No. 2011-0210-03 S

SUMMARY OF REGULATORY ACTION

In this regulatory action, the State Board of Education (SBE) proposed to adopt and amend regulations pertaining to "Charter Revocation and Revocation Appeals." The SBE implements provisions of Education Code section 47607 which pertain to the procedures and requirements for the revocation of a charter school's charter and the appeal rights applicable to charter school revocation actions. Included in this regulatory action are regulations pertaining to (1) the procedures generally applicable when a chartering authority considers the revocation of a charter school's charter, (2) the procedures applicable when a chartering authority revokes a charter school's charter upon a determination that a violation under Education Code section 47607(c)

constitutes a severe and imminent threat to the health or safety of pupils, (3) the procedures for an appeal to a county board of education when a district chartering authority revokes a charter school's charter, and (4) the procedures for an appeal to the SBE of charter school revocation-related decisions. In addition to these regulations, this regulatory action also proposed to include a regulation implementing Education Code section 47604.5, setting forth procedures applicable when the State Superintendent of Public Instruction considers making a recommendation to the SBE for charter revocation or for other action involving a charter school where there have been one or more alleged violations under Education Code sections 47604.5(a) or 47604.5(b).

DECISION

On March 25, 2011, the Office of Administrative Law (OAL) notified the SBE of the disapproval of this regulatory action. The reasons for the disapproval were the following: (1) failure to comply with the "Clarity" standard of Government Code section 11349.1, (2) failure to adequately summarize and respond to all of the public comments received regarding the proposed action, (3) documents in the rulemaking file which are defective, and (4) failure to comply with all required Administrative Procedure Act procedures.

DISCUSSION

Regulations adopted by the SBE must generally be adopted pursuant to the rulemaking provisions of the California Administrative Procedure Act (APA), Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code (Gov. Code, secs. 11340 through 11365). Any regulatory action a state agency adopts through the exercise of quasi-legislative power delegated to the agency by statute is subject to the requirements of the APA, unless a statute expressly exempts or excludes the regulation from compliance with the APA (Gov. Code, sec. 11346). No exemption or exclusion applies to the regulatory action here under review. Consequently, before these regulations may become effective, the regulations and rulemaking record must be reviewed by OAL for compliance with the substantive standards and procedural requirements of the APA, in accordance with Government Code section 11349.1.

A. CLARITY

OAL must review regulations for compliance with the "Clarity" standard of the APA, as required by Government Code section 11349.1. Government Code section 11349, subdivision (c), defines "Clarity" as meaning "written or displayed so that the meaning of regulations will be easily understood by those persons directly affected by them."

The "Clarity" standard is further defined in section 16 of title 1 of the California Code of Regulations (CCR), OAL's regulation on "Clarity," which provides the following:

> In examining a regulation for compliance with the "clarity" requirement of Government Code section 11349.1, OAL shall apply the following standards and presumptions:

(a) A regulation shall be presumed not to comply with the "clarity" standard if any of the following conditions exists:

(1) the regulation can, on its face, be reasonably and logically interpreted to have more than one meaning; or
(2) the language of the regulation conflicts with the agency's description of the effect of the regulation; or
(3) the regulation uses terms which do not have meanings generally familiar to those "directly affected" by the regulation, and those terms are defined neither in the regulation nor in the governing statute; or
(4) the regulation uses language incorrectly. This includes, but is not limited to, incorrect spelling, grammar or punctuation; or
(5) the regulation presents information in a format that is not readily understandable by persons "directly affected;" or
(6) the regulation does not use citation styles which clearly identify published material cited in the regulation.

(b) Persons shall be presumed to be "directly affected" if they:

(1) are legally required to comply with the regulation; or
(2) are legally required to enforce the regulation; or
(3) derive from the enforcement of the regulation a benefit that is not common to the public in general; or
(4) incur from the enforcement of the regulation a detriment that is not common to the public in general.

In this charter revocation and revocation appeals rulemaking, a number of provisions of the proposed regulations fail to comply with the "Clarity" standard. Examples of the "Clarity" problems are set forth below. Additional "Clarity" concerns (such as minor wording and grammar problems) have been discussed with SBE staff and will also need to be corrected in any resubmission of this rulemaking.

1. Regulation sections 11968.5.3, 11968.5.4, and 11968.5.5 – As detailed below, the proposed regulations raise significant "Clarity" concerns with regard to appeals of charter revocation actions under section 11968.5.3 and how the appeal procedures set forth in sections 11968.5.4 (appeal to a county board of education) and 11968.5.5 (appeal to the SBE) would be applied in section 11968.5.3 appeals.

Section 11968.5.3, "Charter Revocation When There is a Severe and Imminent Threat to the Health or Safety of Pupils," provides for an exemption from the generally applicable procedures for charter revocation by a chartering authority (which are in section 11968.5.2) when the chartering authority has determined that any violation under Education Code 47607(c) constitutes a severe and imminent threat to the health or safety of pupils. Under section 11968.5.3, a chartering authority may immediately revoke a charter school's charter by means of a "Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety." Section 11968.5.3(b) then sets forth appeal rights as follows: "Following the approval and delivery of the Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety by the [local educational agency], the charter school may appeal to the

county board of education or the SBE, as applicable, pursuant to Education Code sections 47607(f) and (g) and sections 11968.5.4, 11968.5.5, and 11968.5.6."

The proposed reference in section 11968.5.3(b) to appeal rights in section 11968.5.6 does not makes sense (and would be confusing), as there is no section 11968.5.6 in either existing SBE regulations or proposed in this rulemaking.

The proposed references in section 11968.5.3(b) to sections 11968.5.4, "Appeal of District Charter Revocation to a County Board of Education," and 11968.5.5, "Appeal of a Charter Revocation to the State Board of Education and Submission of the Administrative Record," also raise "Clarity" concerns. The standards and requirements which would be applicable to a section 11968.5.3 appeal are not clear upon examining the specific provisions in those two appeal regulations. Sections 11968.5.4 and 11968.5.5 may have been written with the assumption of an appeal of a revocation action under Section 11968.5.2, "Charter Revocation," (essentially the generally applicable procedures for charter revocation), and without much consideration of an appeal of a revocation action under section 11968.5.3.

For example, section 11968.5.4(a)(1) provides that the charter school filing an appeal shall include with its Notice of Appeal "a copy of the Notice of Violation, Notice of Intent to Revoke and the Final Decision issued pursuant to this article except that the charter school shall not be responsible for providing these documents if the chartering authority did not provide [them] to the charter school as required in section 11968.5.2." Sections 11968.5.4(a)(3) and (a)(4) require the charter school filing an appeal to include "all evidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to remedy one or more violations identified in the Notice(s) of Violation" and "all evidence and correspondence submitted by the charter school's governing body as described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke." Similarly, section 11968.5.5(b)(1) refers to an entity appealing to the SBE providing the Notice of Violation, Notice of Intent to Revoke and Final Decision. Sections 11968.5.5(b)(3) and (b)(4) require the appealing entity to submit "[e]vidence relied upon by the chartering authority in determining whether substantial evidence existed that the charter school failed to refute to the chartering authority's satisfaction or remedy one or more violations identified in the Notice(s) of Violation" and "[e]vidence and correspondence submitted to the charter school's governing body as described in the school's charter in response to the chartering authority's Notice of Violation and Notice of Intent to Revoke." The Notice of Violation, Notice of Intent to Revoke, and the Final Decision are documents which are referenced as part of the revocation process in section 11968.5.2 but which are not referenced as part of the revocation process in section 11968.5.3. The document issued under the terms of section 11968.5.3, which is the "Notice of Revocation by Determination of a Severe and Imminent Threat to Pupil Health or Safety," is not mentioned in either section 11968.5.4 or 11968.5.5 as being part of the required administrative record to be provided by the appealing party.

Other provisions of section 11968.5.4 raise "Clarity" concerns with respect to how they relate or apply to an appeal of a revocation action under section 11968.5.3. For example, section 11968.5.4(b)(1) provides as a standard for county board of education review the following: "In determining whether the district chartering authority's factual findings are supported by

substantial evidence, the county board of education shall consider whether the district chartering authority provided the charter school's governing body as described in the school's charter a Notice of Violation, a reasonable opportunity to remedy the identified violation(s), a Notice of Intent to Revoke, a public hearing, and Final Decision, pursuant to Articles 2 and 2.5 and Education Code sections 47607(c) through (e)." However, this review standard is confusing in relation to an appeal of a revocation action under section 11968.5.3 since section 11968.5.3 does not provide for a Notice of Violation, a Notice of Intent to Revoke, a Final Decision, or a reasonable opportunity to remedy the identified violation(s).

As discussed in greater detail below under "Summary and Response to Public Comments," a public commenter in this rulemaking (Colin A. Miller, on behalf of the California Charter Schools Association) raised some of these "Clarity" concerns. Mr. Miller's comments included the following: "We suggest adding language [to sections 11968.5.4 and 11968.5.5] to clarify what happens in the situation in which the charter school was revoked for a 'severe and imminent threat to the health or safety of its pupils.' The process for revoking a school under that provision has different standards and steps that apply, so the record will look different for schools that are appealing under this circumstance...."

In summary, if section 11968.5.3(b) is to provide for appeal rights pursuant to sections 11968.5.4 and 11968.5.5, sections 11968.5.4 and 11968.5.5 require greater clarity with respect to the appeal requirements and standards for an appeal of a revocation action under section 11968.5.3.

2. Regulation sections 11965 and 11960 – Section 11965 is an existing "Definitions" regulation within the body of charter school regulations, containing definitions of terms used in the "Subchapter 19. Charter Schools" regulations. In its existing form, the section 11965 definitions appear to have applicability throughout Subchapter 19, as there is no limiting language at the beginning of or within this section, and section 11965 is in Article 2 "General Provisions" within Subchapter 19.

As part of this rulemaking, the SBE is adding to section 11965 many new definitions of terms that are used in the proposed charter revocation and revocation appeals regulations. In amending regulation section 11965, the SBE has added new limiting language at the beginning of this regulation which reads: "For the purposes of this Article and Article 2.5, the following definitions shall apply." This new language has the effect of limiting the scope of coverage of the definitions to only those regulations within Articles 2 and 2.5 of Subchapter 19.

The addition of this limiting language at the beginning of section 11965 raises a "Clarity" problem. One of the existing definitions within section 11965 is the definition of the term "satisfactory progress." Besides the use of this "satisfactory progress" definition within Article 2, the definition is also used within existing Article 1 of Subchapter 19 in regulation section 11960. Section 11960(c)(1)(A) contains multiple references to the defined term "satisfactory progress." Consequently, the addition in section 11965 of the limiting language "For the purposes of this Article [2] and Article 2.5, the following definitions shall apply" has the effect of making a pertinent definition no longer applicable to Article 1, section 11960. The definition of "satisfactory progress" needs to continue to apply to Article 1, section 11960 in order to maintain the clarity of that regulation.

Furthermore, section 11960(c)(1)(A) includes a specific cross-reference to the definition of "satisfactory progress" in section 11965. Section 11960(c)(1)(A) refers to pupils making satisfactory progress "consistent with the definition of satisfactory progress set forth in subdivision (b) of Section 11965." As part of the proposed amendments to section 11965, the "satisfactory progress" definition is being re-lettered to be subdivision (h) of section 11965. Consequently, the cross-reference in section 11960(c)(1)(A) needs to be updated to reflect the new lettering of the definition of "satisfactory progress."

3. Regulation sections 11968.5.1(c), 11968.5.2 (first sentence), and 11968.5.2(a) – Throughout the proposed regulations in their final form, the SBE has generally used the phrase "charter school's governing body as described in the school's charter" to refer to the governing body of a charter school (changes were specifically made during the first 15-day notice period to utilize this phrase in the body of regulations). However, in section 11968.5.1(c), the regulation text continues to instead refer to "the charter school board or the governing entity described in the school's charter." Similarly, section 11968.5.2 (first sentence) instead refers to "the charter school's governing board." The use of this alternative language in sections 11968.5.1(c) and 11968.5.2 (first sentence) is confusing because it is internally inconsistent with the terminology used elsewhere in the charter revocation and revocation appeals regulations.

A similar type of problem relates to the use of the term "charter authorizer" in section 11968.5.2(a). Throughout these regulations, the SBE has used the term "chartering authority" to refer to the entity that grants a school's charter, and, in fact, that term is specifically defined in proposed regulation section 11965(a). However, section 11968.5.2(a), instead of using the defined term "chartering authority," uses the term "charter authorizer." The "Clarity" of section 11968.5.2(a) would be improved by utilizing the defined term.

4. Regulation section 11968.5.4(b)(2) – As discussed above, section 11968.5.4 provides for charter school appeals to a county board of education when a charter has been revoked by a district chartering authority. Section 11968.5.4(b)(2) states: "If the charter school submits a response to the Notice of Violation pursuant to section 11968.5.2(b), the county board of education shall, in determining whether the district chartering authority's factual findings are supported by substantial evidence, consider whether the charter school complied with the procedures set forth in that section." (Emphasis added.) The referenced "section 11968.5.2(b)" does not make sense because that section 11968.5.2(b) does not include any provisions regarding a charter school submitting a response to a Notice of Violation. Section 11968.5.2(c) does contain provisions regarding a charter school submitting a response to a Notice of Violation, and it is likely that the SBE intended to refer to that subsection.

5. Regulation section 11968.5.5(a) – As discussed above, section 11968.5.5 provides for appeals to the SBE. Section 11968.5.5(a) states: "If the district chartering authority or the charter school's governing body as described in the school's charter elects to appeal to the SBE, the appellant shall approve and deliver a written Notice of Appeal to the SBE within 30 calendar days of receiving a written decision by the county board of education, upon the expiration of 90 calendar days pursuant to section 11968.5.4(b), or a county chartering authority's Final Decision." (Emphasis added).

The language underlined above is subject to multiple interpretations and is not easy to understand. For appeals "upon the expiration of 90 calendar days pursuant to section 11968.5.4(b)," does SBE mean that the Notice of Appeal must be delivered to the SBE at the time of the expiration of 90 calendar days, or does SBE intend to allow for a 30 calendar day period for the Notice of Appeal after the expiration of 90 calendar days and therefore essentially mean "within 30 calendar days after the expiration of the 90 calendar day period referenced in section 11968.5.4(b)"? For appeals of "a county chartering authority's Final Decision," does SBE mean that the Notice of Appeal must be delivered to the SBE "within 30 calendar days of receiving a county chartering authority's Final Decision" or does SBE have an alternative meaning? It is important that Section 11968.5.5(a) be clear since a failure to meet the required time periods for an appeal to the SBE could have a significant impact on a "directly affected" appealing party.

6. Regulation sections 11968.5.5(b) and (b)(1) – In relation to an appeal to the SBE, the opening language of section 11968.5.5(b) and section 11968.5.5(b)(1) provide the following: "(b) The appellant shall, at the same time it delivers a Notice of Appeal to the SBE, deliver to the SBE the following information: (1) The appellant's Notice of Appeal to the SBE, which shall include copies of the Notice of Violation, Notice of Intent to Revoke, the Final Decision, the Notice of Appeal, and the county board of education's written decision, as applicable." (Emphasis added.) The several references to "Notice of Appeal" are confusing in this context. SBE appears in this language to be requiring the "Notice of Appeal to the SBE" twice (the written Notice of Appeal to the SBE is already required under section 11968.5.5(a) immediately above these provisions). In addition, the final reference to "the Notice of Appeal" is somewhat confusing given the multiple references to this term. SBE probably intended this final reference to mean "the Notice of Appeal to the county board of education," but that needs to be clarified.

7. Regulation section 11968.5.5(b)(6) – In relation to an appeal to the SBE, one of the document submission requirements for an appellant is set forth in section 11968.5.5(b)(6) as follows: "These documents should be individually and sequentially numbered, one number per page." The use of the word "should" in the context of a regulation may in some instances raise "Clarity" concerns with regard to whether a regulatory provision is mandatory requirement or a non-mandatory recommendation. In the case of section 11968.5.5(b)(6), the use of "should" leaves some uncertainty as to whether an appellant would be non-compliant with appeal submission requirements (and therefore subject to having the appeal rejected) if the appellant submitted documents which were not individually and sequentially numbered, one number per page. The use of the word "should" needs to be avoided in this context. Assuming that the intent here is that the requirements of section 11968.5.5(b)(6) be mandatory, the word "shall" would be appropriate instead of the word "should." We note that similar requirements pertaining to documents being "individually and sequentially numbered, one number per page" appear to be mandatory in sections 11968.5.5(c)(4), 11968.5.5(d)(4), and 11968.5.5(e)(3) which follow.

8. Regulation sections 11968.5.5(e) and (e)(4) – In relation to an appeal to the SBE, the opening language of section 11968.5.5(e) and section 11968.5.5(e)(4) provide the following: "(e) Within 15 calendar days of the delivery of the respondent's written argument to the SBE, the appellant may submit to the SBE a written reply to the respondent's written argument in the form of a brief

or letter. If submitted, this written argument shall: . . . (4) be delivered to the appellant within five calendar days of delivery to the SBE." (Emphasis added.) These provisions are confusing, in that the appellant submitting a written reply to the SBE is required to deliver a copy of the reply to the appellant. It is unlikely that the appellant is required to deliver a copy to itself. Perhaps section 11968.5.5(e)(4) is intended to read: "(4) be delivered to the respondent within five calendar days of delivery to the SBE."

Conclusion: The "Clarity" problems discussed above and all other "clarity" problems which have been discussed with SBE staff must be resolved before the regulations can be approved by OAL.

B. SUMMARY AND RESPONSE TO PUBLIC COMMENTS

Government Code section 11346.9, subdivision (a), provides that an agency proposing regulations shall prepare and submit to OAL a "final statement of reasons." One of the required contents of the final statement of reasons is a summary and response to public comments. Specifically, Government Code section 11346.9, subdivision (a)(3), requires that the final statement of reasons include:

> A summary of each objection or recommendation made regarding the specific adoption, amendment, or repeal proposed, together with an explanation of how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. This requirement applies only to objections or recommendations specifically directed at the agency's proposed action or to the procedures followed by the agency in proposing or adopting the action . . . .

In this charter revocation and revocation appeals rulemaking, the SBE received a total of six public comment letters during the 45-day public comment period and two 15-day public comment periods. Some of those comment letters included a large number of individual public comments. The SBE adequately summarized and responded to many of the public comments which were received. However, a detailed review of the final statement of reasons and of the public comments indicates that (1) a number of public comments did not receive a summary and response, and (2) some public comments were summarized and responded to, but the summary and response contained errors, was incomplete, or was otherwise not fully responsive to the comments received. Examples of the problems with summary and response to public comments are set forth below.

1. Comments of Colin A. Miller -- Colin A. Miller, on behalf of the California Charter Schools Association, submitted extensive comments regarding the proposed charter revocation and revocation appeals regulations in a letter dated July 6, 2010. These comments were submitted in connection with the 45-day public comment period. Summary and response problems include the following:

Mr. Miller commented that with respect to regulatory language explaining "a severe and imminent threat to pupil health or safety" in section 11965(e)(4), "[i]nclusion of 'severe' is necessary to more closely align with the statutory language." See pages 33 and 40 of the

rulemaking record. The final statement of reasons does not include a summary and response to this comment.

Mr. Miller commented with respect to regulation section 11968.5.1, which pertains to State Superintendent of Public Instruction recommended revocations or other actions under Education Code sections 47604.5(a) and 47604.5(b): "We suggest addition of the 'chartering authority' to assure all affected parties are notified." See page 34 of the rulemaking record. Related to this comment, in the annotated regulation text attached as part of the comments, the commenter shows the addition of "chartering authority" four places within section 11968.5.1, thereby effectively granting the chartering authority notice and response rights in the event of a potential State Superintendent of Public Instruction recommendation to the SBE for revocation or other action under Education Code section 47604.5(a) or section 47604.5(b). See pages 43 and 44 of the rulemaking record. The SBE responds to each of these comments on pages 3 and 4 of the final statement of reasons with the response: "... [T]his exceeds the requirements for revocation set forth in Education Code section 47607." These responses, relying upon Education Code section 47607, are not meaningful. The State Superintendent of Public Instruction recommendations involved in regulation section 11968.5.1 are governed by Education Code section 47604.5, not Education Code section 47607. Education Code section 47607 would not be determinative as to which parties are entitled to notice and participation in relation to a potential action under Education Code section 47604.5. The SBE needs to provide more accurate and meaningful responses to these comments.

Mr. Miller commented as follows with respect to regulatory language relating to the response of a charter school governing body to a Notice of Violation in section 11969.1(b)(1) [a section which was subsequently renumbered section 11968.5.2(c)(1)]: "We suggest deleting the word 'detailed' as this is a subjective and unnecessary qualifier with no basis in the law. We are concerned that under this language, a chartering authority could simply reject a response as not being 'detailed' enough. In addition, the chartering authority isn't subject to the same 'detailed' requirement in its Notice of Violation, so the charter could be put in a position of trying to provide a 'detailed' response to a very vague Notice. Charter schools should be able to gauge the appropriate level of detail necessary to be compelling to its authorizer. Therefore 'detailed' should be deleted from this phrase." See pages 35 and 45 of the rulemaking record. The final statement of reasons does not include a summary and response to this comment.

Mr. Miller commented regarding the regulations involving appeals to a county board of education and appeals to the SBE, regulation sections 11969.3 and 11969.4 [sections which were subsequently renumbered sections 11968.5.4 and 11968.5.5, respectively]: "We suggest adding language to clarify what happens in the situation in which the charter school was revoked for a 'severe and imminent threat to the health or safety of its pupils.' The process for revoking a school under that provision has different standards and steps that apply, so the record will look different for schools that are appealing under this circumstance. This amendment offers some clarity to ensure that the entity considering the appeal receives the necessary information related to that finding." See page 37 of the rulemaking record. Related to this comment, in the annotated regulation text attached as part of the comments, the commenter shows an addition to section 11969.3 (county board of education appeals) of a provision reading: "If the school was revoked pursuant to 11969.2, provides all information the chartering authority relied on in

making the determination of a 'Severe and Imminent Threat to the Health and Safety of the Pupils.'" See page 48 of the rulemaking record. Furthermore, in the annotated regulation text the commenter shows an addition to section 11969.4 (SBE appeals) of a provision reading: "All information the chartering authority relied on in making the determination of a 'Severe and Imminent Threat to the Health and Safety of the Pupils,' if the school was revoked pursuant to 11969.2." See page 50 of the rulemaking record. The SBE responds to these comments on pages 7 and 8 of the final statement of reasons with the following: ". . . the proposed regulations already provide a clear appeal process for charter schools that are revoked pursuant to section 11969.2. It is clear in section 11969.2 that the appeal process shall follow the provisions in proposed sections 11969.3, 11969.4 and 11969.5." This response is not adequate. The commenter is asserting that section 11969.3 [later section 11968.5.4] and section 11969.4 [later section 11968.5.5] need added language to clarify the requirements which would be applicable to an appeal of a "severe and imminent threat to the health or safety of pupils' revocation at the county board of education and SBE appeal levels. The commenter is pointing out that since a "severe and imminent threat" revocation "has different standards and steps that apply...the record will look different for schools that are appealing under this circumstance." The final statement of reasons does not include a meaningful response to these comments.

Mr. Miller recommended, in the annotated regulation text which he submitted as part of his comments, the following addition to the regulation pertaining to appeals to a county board of education, regulation section 11969.3 [a section which was subsequently renumbered section 11968.5.4]: "The county board shall hold a public hearing to consider the appeal within 60 days of the receipt of a Notice of Appeal. No later than 10 days before the public hearing, the county board shall provide the charter school with all documents and materials that will be used to consider the appeal. At the public hearing, the county board shall present the evidence and representatives of the charter school and of the general public shall have an equal opportunity to address the board regarding the allegations and the evidence presented." See page 48 of the rulemaking record. The SBE provides a response to this comment on page 7 of the final statement of reasons as follows: "The suggested new section exceeds the statutory language in Education Code section 47607(f)(3) that provides a county board of education the option to not act on an appeal of a charter revocation." This response is not complete. The commenter is essentially making multiple recommendations in his proposed regulation language. There does appear to be a response to the commenter's proposed recommended language which would require the county board of education to hold a public hearing to consider the appeal within 60 days of the receipt of a Notice of Appeal. However, there are not adequate responses to the commenter's other recommendations regarding (1) the county board providing the charter school, no later than 10 days before a public hearing, with all documents and materials that will be used to consider the appeal (in the event a hearing is held), and (2) representatives of the charter school and of the general public having an equal opportunity at a public hearing to address the county board regarding the allegations and evidence presented (in the event a hearing is held).

Mr. Miller commented as follows with respect to regulatory language regarding the effect of a county board of education not issuing a written decision within 90 calendar days in section 11969.3(b) [a section which was subsequently renumbered section 11968.5.4(b)]: "We suggest deleting the word 'complete' as this is a subjective and unnecessary qualifier with no basis in the

law. We are concerned that under this language, a Notice of Appeal could be rejected simply for not being 'complete' and not receive the necessary due process considerations. Charter schools should be able to gauge the appropriate level of detail necessary to be compelling to the entity receiving the appeal." See pages 37 and 48 of the rulemaking record. The final statement of reasons does not include a summary and response to this comment.

Mr. Miller commented as follows with respect to the proposed procedures for appeals to the SBE under regulation section 11969.4 [a section which was subsequently renumbered section 11968.5.5]: "It is unclear why this additional back and forth is included in the state board appeal, but not at the county level. ... [W]e suggest the board seriously consider the value of this additional process against the timeliness of a decision. Because the state board already has the benefit of the county review, it seems it may be able to reach its decision in a timelier manner and the additional timelines and back and forth could be eliminated from the regulations altogether. While we support the opportunity for all parties to provide information to the board, we believe that a much simpler and streamlined approach could achieve that goal and lead to a fair decision sooner. See pages 38 of the rulemaking record. The final statement of reasons does not include a summary and response to this comment.

2. Comments of Gregory V. Moser – Gregory V. Moser submitted comments regarding the proposed charter revocation and revocation appeals regulations in a letter dated July 6, 2010. These comments were submitted in connection with the 45-day public comment period.

One of Mr. Moser's comments was the following: "Charter Schools are often limited to 3 minutes to respond to revocation charges along with members of the public, while the district staff gets an unlimited time to present its 'case' for revocation. The regulations should ensure that the charter school gets equal time to presents its case and an opportunity for rebuttal before the close of the hearing. I have personally experienced (more than once) districts making an extensive presentation, then limiting the respondents to 3 minutes with no opportunity for rebuttal." The response to this comment on pages 1 and 2 of the final statement of reasons is as follows: "The [California Department of Education] has no jurisdiction over how local boards conduct their meetings. California Education Code ... Section 47608 specifies that all meetings of the governing boards of the school district and the county board of education shall comply with the Ralph M. Brown Act (Brown Act). Section 54954.3(b) of the Brown Act authorizes these bodies to adopt regulations to assist in processing comments from the public and specifies that the bodies may establish procedures for public comments as well as specifying reasonable time limitations on particular topics or individual speakers." The concern with this response is that it does not accurately reflect changes which were ultimately made to the regulations. In fact, during the first 15-day comment period the SBE revised regulation section 11968.5.2, "Charter Revocation," to include in section 11968.5.2(f) the following language: "At any hearing concerning the revocation of a charter school, the charter school shall be allowed equal time to present and rebut prior to the close of the hearing."

3. Comments of Paul C. Minney – Paul C. Minney, on behalf of Middleton, Young & Minney LLP, submitted comments regarding the proposed charter revocation and revocation appeals regulations in a letter dated July 6, 2010. These comments were submitted in connection with the 45-day comment period.

One of Mr. Minney's comments recommended the deletion of the words "to the chartering authority's satisfaction" from section 11969.1(c)(1) [a section which was subsequently renumbered 11968.5.2(d)(1)]. See the annotated regulation text submitted by Mr. Minney at page 60 of the rulemaking record. The final statement of reasons does not include a summary and response to this comment.

Conclusion: These examples and all other public objections and recommendations directed at the SBE's proposed action must be substantively summarized and responded to before the regulations can be approved by OAL. Other specific problems relating to summarizing and responding to public comments have been discussed with SBE staff.

C. INCORRECT PROCEDURES AND DEFECTIVE DOCUMENTS

In addition to the problems discussed above, this charter revocation and revocation appeals rulemaking presents several problems relating to compliance with APA procedural requirements, including defective documents required as part of the APA process. Each of these problem areas is discussed below.

1. Final statement of reasons – Government Code section 11346.9, subdivision (a)(1), provides that the final statement of reasons for a regulatory action shall include "[a]n update of the information contained in the initial statement of reasons...."

In this charter revocation and revocation appeals rulemaking, the SBE has in its final statement of reasons partially updated the information contained in the initial statement of reasons by means of explaining the modifications made during the two 15-day notice periods (pages 11-14 and 16-17 of the final statement of reasons). However, a more comprehensive updating of the information set forth in the initial statement of reasons is needed. During the course of this rulemaking, four of the primary regulations being added were renumbered after the time the initial statement of reasons was written. Specifically, in the first 15-day notice, originally proposed sections 11969.1, 11969.2, 11969.3, and 11969.4 were renumbered 11968.5.2, 11968.5.3, 11968.5.4, and 11968.5.5, respectively. The information contained in the initial statement of reasons needs to be fully updated in the final statement of reasons to reflect the new regulation section numbering, as well as the other changes. This updating will provide a more accurate and complete explanation of the regulations as they were finally adopted and submitted for filing with the Secretary of State.

2. Form 400 – Section 6 of title 1 of the CCR requires that rulemaking agencies complete the Form 400 for the submission of regulations to OAL for publication and/or for transmittal to the Secretary of State for filing. Section 6(b) specifies the required contents of the completed Form 400, including a requirement in section 6(b)(2) that the form specify: "the title(s) of the California Code of Regulations affected and a list of all regulation sections being adopted, amended or repealed." In this charter revocation and revocation appeals rulemaking, the SBE did properly include a Form 400 with the original and copies of the final regulation text. In most respects, the Form 400 is complete and accurate; however, the list of regulation sections being

adopted, amended and repealed as set forth in Section B.2 of the form is inaccurate and incomplete.

3. Underline and strikeout in the final regulation text – Section 8 of title 1 of the CCR sets forth the requirements for the "final text" of regulations submitted to OAL for filing with the Secretary of State. Section 8(b) provides: "The final text of the regulation shall use underline or italic to accurately indicate additions to, and strikeout to accurately indicate deletions from, the California Code of Regulations…." In this charter revocation and revocation appeals rulemaking, generally the SBE accurately and properly showed changes in the final regulation text in underline and strikeout. The exception is on page 12 of the final regulation text where a regulation entitled "Purpose and Stipulation" is shown as being renumbered from "11969.10" (which is in strikeout) to "11969.1" (which is underlined). This "Purpose and Stipulation" regulation is already numbered "11969.1" in the CCR, so the changes in underline and strikeout are not appropriate.

CONCLUSION

For the reasons set forth above, OAL has disapproved this regulatory action. If you have any questions, please contact me at (916) 323-6225.

Date: March 30, 2011

Bradley J. Norris

Bradley J. Norris
Senior Staff Counsel

FOR: DEBRA M. CORNEZ
Assistant Chief Counsel/
Acting Director

Original: Patricia de Cos
Copy: Debra Thacker

STATE OF CALIFORNIA — DEPARTMENT OF FINANCE

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (REV. 12/2008)

See SAM Section 6601 - 6616 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
Education	Linda M. Lewis	319-0658
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER
Charter Revocation and Revocation Appeals (final 5-11-11)		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
- ☐ g. Impacts individuals
- ☑ h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) The regulations would not impose any additional costs to the private sector.

(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. 12/2008)

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. 12/2008)

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 an 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 boxes1 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 _____, 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 $ _____ 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 _____

   ☐ 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;

   ☐ g. creates, eliminates, or changes the penalty for a new crime or infraction contained in _____

☐ 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 regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 12/2008)

☐ 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 $ _____ 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. The activities in the regulations would impose new workload to CDE. This new workload would require 3 Ed Prog Consultants and one-half Staff Counsel III, for a total on-going cost of $380,000.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS (Indicate appropriate boxes1 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 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.

FISCAL OFFICER SIGNATURE		DATE 6/17/11 Ed Fiscal Services Consultant
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE		DATE 6/27/2011
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	PROGRAM BUDGET MANAGER	DATE

1. *The signature attests that the agency has completed the STD.399 according to the instructions in SAM sections 6601-6616, and understands the impacts of the proposed rulemaking. State boards, offices, or department 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 6601-6616 require completion of Fiscal Impact Statement in the STD.399.*

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 23

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Consideration of Requests for Determination of Funding Rates as Required for Nonclassroom-based Charter Schools for Ecademy California, Shenandoah Charter, William Finch Charter, Innovations Academy, and Charter School of San Diego.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) and the Advisory Commission on Charter Schools (ACCS) recommend that the State Board of Education (SBE) approve the funding rates for nonclassroom-based instruction in charter schools as listed in Attachment 2.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Senate Bill 740 (Chapter 892, Statutes of 2001), enacted provisions of law (California *Education Code* (*EC*) Section 47612.5) that established the eligibility requirements for apportionment funding for charter schools that offer nonclassroom-based instruction. The statute specifies that a charter school may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to *EC* Section 47634.2 by the SBE. The law provides the SBE with the authority to adjust the apportionment of charter schools that offer nonclassroom-based instruction. The law also states that a funding determination by the SBE for nonclassroom-based instruction shall not be more than 70 percent of the unadjusted amount to which a charter would otherwise be entitled, unless the SBE determines that a greater or lesser amount is appropriate based on specified criteria. The statute also specifies that nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study and distance and computer-based education.

Senate Bill 740 also established the ACCS to develop criteria for the SBE to use in making funding determinations for nonclassroom-based programs on the basis of average daily attendance (ADA). Pursuant to *EC* Section 47634.2, these regulations would:

SUMMARY OF PREVIOUS…(Cont.)

- Ensure instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function, and would consider:
    - The amount of the charter school's total budget expended on certificated employee salaries and benefits, and on school sites
    - The pupil-teacher ratio in the school

Subsequently, regulations were adopted in the *California Code of Regulations*, Title 5 (5 *CCR*) sections 11963.4 and 11963.6. These regulations specify funding levels for a nonclassroom-based charter school.

Pursuant to 5 *CCR* Section 11963.4(a), a nonclassroom-based charter school may qualify for 70 percent, 85 percent, or 100 percent funding, or may be denied. To qualify for 100 percent funding, a nonclassroom-based charter school must meet the following criteria:

- At least 40 percent of the school's public revenues must be spent on employee salaries and benefits for instructional services or support
- At least 80 percent of all revenues must be spent on instruction and related services
- The ratio of ADA for independent study pupils to full-time certificated employees does not exceed 25:1, or the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district in the county or counties in which the charter school operates

SUMMARY OF KEY ISSUES

5 *CCR* Section 11963.4 specifies the criteria that a nonclassroom-based charter school must meet. The schools listed in Attachment 2 meet the criteria and existing charter schools have submitted the required audit reports that verify their reported expenditures. Additionally, 5 *CCR* Section 11963.6(c) specifies that a SBE approved funding determination period shall be in increments of a minimum of two years and a maximum of five years. *EC* 47612.5 requires a five-year determination for a charter school that has achieved a rank of 6 or greater on the Academic Performance Index for the past two fiscal years. For new charter schools in their first year of operation, 5 *CCR* 11963.6 specifies that they shall receive a funding determination for only two fiscal years.

At its March 9–11, 2010, meeting, the SBE granted a 100 percent two-year funding determination (for fiscal years 2010–11 and 2011–12) for the Charter School of San

Diego (#0028). The CDE and the ACCS made a recommendation of a 100 percent four-year funding determination. Although it was unclear at that time whether the Charter School of San Diego was an ASAM school, the SBE indicated that the charter school's request for a four-year determination could be reconsidered once the charter school's ASAM status was determined. The CDE confirmed the charter school's ASAM status was effective December 16, 2009. The Charter School of San Diego is requesting consideration for a two-year augmentation (for fiscal years 2012–13 and 2013–14) of its funding determination.

Table 1 provides three years of Academic Performance Index (API) and Adequate Yearly Progress (AYP) results for those charter schools where such data are available.

FISCAL ANALYSIS (AS APPROPRIATE)

If approved, no additional fiscal impact has been identified because each school is an existing charter school that is already receiving state apportionment funding. If this request is denied there could be savings in state apportionment funding.

ATTACHMENT(S)

Attachment 1: Background Information (1 Page)

Attachment 2: Funding Recommendations (1 Page)

Attachment 3: Excerpts from the California *Education Code* and Implementing Regulations with Regard to SB 740 Funding Determinations (4 Pages)

Background Information

Table 1: Academic Performance Data for Charter Schools For Consideration of Funding Determination Requests

		2009–10 Accountability Progress Reporting			2008–09 Accountability Progress Reporting			2007–08 Accountability Progress Reporting		
		API		AYP	API		AYP	API		AYP
Charter School	First Year of Oper-ation	2010 Growth API (Change)	2009 State-wide/ Similar School Decile Rank	2010 Met AYP Criteria (Number of Criteria Met)	2009 Growth API (Change)	2008 State-wide/ Similar School Decile Rank	2009 Met AYP Criteria (Number of Criteria Met)	2008 Growth API (Change)	2007 State-wide/ Similar School Decile Rank	2008 Met AYP Criteria (Number of Criteria Met)
Ecademy California	2009	*	*	*	N/A	N/A	N/A	N/A	N/A	N/A
Shenandoah Charter	2002	713 (-29)	6/*	Yes 5/5	743 (24)	6/*	Yes 6/6	719 (-3)	6/*	Yes 6/6
William Finch Charter	2004	723 (29)	4/*	Yes 5/5	695 (35)	3/*	No (5/6)	666 (-2)	4/*	No (5/6)
Innovations Academy	2008	732 (89)	1/*	Yes (7/7)	644 (*)	*/*	No (2/7)	N/A	N/A	N/A
Charter School of San Diego	1994	658 (21)	ASAM	No (12/22)	637 (19)	2/3	No (16/24)	618 (-5)	2/8	No (18/26)

*—Indicates no reported data are available. **—Alternative Schools Accountability Model (ASAM) schools do not have reported data for API ranks or targets. N/A–Note first year of operation.

Funding Recommendations

100% Recommendation Two Years–Continuing Schools
Fiscal Year 2010–11 through 2011–12

Charter #	County	School	First Year of Operation	CDE Recommendation
1024	San Diego	Innovations Academy	2008	100% 2 Years

100% Recommendation Three Years–Continuing Schools
Fiscal Year 2011–12 through 2013–14

Charter #	County	School	First Year of Operation	CDE Recommendation
1005	San Diego	Ecademy California	2009	100% 3 Years

100% Recommendation Four Years–Continuing Schools
Fiscal Year 2011–12 through 2014–15

Charter #	County	School	First Year of Operation	CDE Recommendation
0634	Glenn	William Finch Charter	2004	100% 4 Years

100% Recommendation Five Years–Continuing Schools
Fiscal Year 2011–12 through 2015–16

Charter #	County	School	First Year of Operation	CDE Recommendation
0366	El Dorado	Shenandoah Charter	2002	100% 5 Years

100% Recommendation Two Years–Continuing Schools
Fiscal Year 2012–13 through 2013–14

Charter #	County	School	First Year of Operation	CDE Recommendation
0028	San Diego	Charter School of San Diego	1994	100% 2 Years

Excerpts from the California *Education Code* and Implementing Regulations with Regard to SB 740 Funding Determinations

California *Education Code* Section 47612.5
General Requirements

(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (1) of subdivision (e), a charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to Section 47634.2 by the State Board of Education. The determination for funding shall be subject to any conditions or limitations the State Board of Education may prescribe. The State Board of Education shall adopt regulations on or before February 1, 2002, that define and establish general rules governing nonclassroom-based instruction that apply to all charter schools and to the process for determining funding of nonclassroom-based instruction by charter schools offering nonclassroom-based instruction other than the nonclassroom-based instruction allowed by paragraph (1) of subdivision (e). Nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. In prescribing any conditions or limitations relating to the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (l) of Section 47605.

(d)(2) Except as provided in paragraph (2) of subdivision (b) of Section 47634.2, a charter school that receives a determination pursuant to subdivision (b) of Section 47634.2 is not required to reapply annually for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. A charter school that has achieved a rank of 6 or greater on the Academic Performance Index for the two years immediately prior to receiving a funding determination pursuant to subdivision (b) of Section 47634.2 shall receive a five-year determination and is not required to annually reapply for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. Notwithstanding any provision of law, the State Board of Education may require a charter school to provide updated information at any time it determines that a review of that information is necessary. The State Board of Education may terminate a determination for funding if updated or additional information requested by the board is not made available to the board by the charter school within a reasonable amount of time or if the information otherwise supports termination. A determination for funding pursuant to Section 47634.2 may not exceed five years.

California *Education Code* Section 47634.2
Nonclassroom-based instruction; funding determinations and allocations

(a)(1) Notwithstanding any other provision of law, the amount of funding to be allocated to a charter school on the basis of average daily attendance that is generated by pupils engaged in nonclassroom-based instruction, as defined by paragraph (2) of subdivision

(d) of Section 47612.5, including funding provided on the basis of average daily attendance pursuant to Sections 47613.1, 47633, 47634, and 47664, shall be adjusted by the State Board of Education. The State Board of Education shall adopt regulations setting forth criteria for the determination of funding for nonclassroom-based instruction, at a minimum the regulation shall specify that the nonclassroom-based instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function. In developing these criteria and determining the amount of funding to be allocated to a charter school pursuant to this section, the State Board of Education shall consider, among other factors it deems appropriate, the amount of the charter school's total budget expended on certificated employee salaries and benefits and on schoolsites, as defined in paragraph (3) of subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio in the school.

***California Code of Regulations,* Title 5 Section 11963.4**
Evaluation of Determination of Funding Requests Regarding Nonclassroom-Based Instruction

(a) When a complete determination of funding request is received from a charter school, it shall be reviewed by the California Department of Education and presented to the Advisory Commission on Charter Schools, along with credible information pertaining to the request obtained from any other source. The Advisory Commission shall develop a recommendation pursuant to this section to the State Board of Education regarding the request, and that recommendation shall be presented to the State Board of Education by the California Department of Education. The following criteria shall guide the process of reviewing and developing a recommendation on the request. The California Department of Education shall report any difference of opinion between the California Department of Education and the Advisory Commission as to the recommendation presented to the State Board of Education.

(1) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals at least 35 percent but less than 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 60 percent but less than 70 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 70 percent, unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(2) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 70 percent but less than 80 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 85 percent, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying a percentage that is greater than 70 percent and, if the recommended percentage is lower than the requested percentage, the reasons

justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(3) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals or exceeds 80 percent, and the ratio of average daily attendance for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of 25:1 or the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 100 percent (i.e. full funding), unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(4) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 is less than 35 percent, or the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 is less than 60 percent, then the charter school's nonclassroom-based instruction is not substantially dedicated to the instructional benefit of the students, and the Advisory Commission on Charter Schools shall recommend that the State Board of Education deny the request, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying the denial and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school. Denial of a determination of funding request by the State Board of Education shall result in no funding being apportioned for average daily attendance identified by the charter school as being generated through nonclassroom-based instruction pursuant to Education Code section 47634.2(c).

(5) Any request for a funding determination received prior to the effective date of these regulations will be reviewed pursuant to the criteria in effect at the time of submittal.

(b) The Advisory Commission on Charter Schools and/or the California Department of Education may ask the charter school to provide additional information in order to make possible a more detailed review or to develop a reasonable basis for a recommendation other than those prescribed in subdivision (a). With the consent of the Superintendent of Public Instruction, the request for additional information shall be considered a reasonable inquiry to which the charter school must respond pursuant to Education Code section 47604.3.

(c) Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the percentage of funding authorized, if any information that may change the conclusion to approve the original multi-year funding determination is found.

(d) Prior to a recommendation by the Advisory Commission on Charter Schools (that a determination of funding request be denied or approved at a percentage lower than that requested) being forwarded to the State Board of Education, the affected charter school shall be given thirty (30) calendar days in which to amend its determination of funding request and/or to provide additional information in support of the request. Based upon consideration of the amended request or any additional information that may be provided, the Advisory Commission may modify its recommendation to the State Board.

(e) A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

***California Code of Regulations,* Title 5 Section 11963.6**
Submission and Action on Determination of Funding Requests Regarding Nonclassroom-Based Instruction

Section 11963.6(a) An approved determination of funding for a new charter school in its first year of operation shall be submitted by December 1 and shall be for two fiscal years. Within 90 days after the end of its first fiscal year of operation, a charter school shall submit unaudited actual expense reports and a funding determination form based on the school's actual second-year budget. If the Advisory Commission on Charter Schools determines that the actual expenditures of the charter school or the second year funding determination form do not support the funding determination for the second year, the Advisory Commission on Charter Schools shall recommend that the State Board of Education revise the funding determination.

Section 11963.6(c) Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. Beginning with the 2007-08 fiscal year, nonclassroom-based charter schools that had a funding determination in the prior year must submit a funding determination request by February 1 of the fiscal year prior to the year the funding determination will be effective, when a new request is required under these regulations.

California State Board of Education
Meeting Agenda Items for July 13-14, 2011

Item 24

CALIFORNIA STATE BOARD OF EDUCATION

JULY 2011 AGENDA

SUBJECT	
Consideration of Requests From Nonclassroom-based Charter Schools for "Reasonable Basis"/Mitigating Circumstances Changes in Funding Determinations Based on the California Code of Regulations, Title 5, Section 11963.4(e) for Academy of Personalized Learning, Golden Valley Virtual Charter, California Virtual Academy Los Angeles, Mark West Charter, Merced Scholars Charter, Mountain Peak Charter, Independence Charter and Sherman Thomas Charter.	☒ Action ☒ Information ☐ Public Hearing

RECOMMENDATION

The California Department of Education (CDE) and the Advisory Commission on Charter Schools (ACCS) recommend that the State Board of Education (SBE) approve the requests to allow the inclusion of mitigating circumstances in the determination of funding rates required by California *Education Code* (*EC*) Sections 47612.5 and 47634.2 and implemented through *California Code of Regulations*, Title 5 (5 *CCR*) Section 11963.4(e) for Academy of Personalized Learning, Golden Valley Virtual Charter, California Virtual Academy Los Angeles, Mark West Charter, Merced Scholars Charter, Mountain Peak Charter, Independence Charter and Sherman Thomas Charter.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

Senate Bill 740 (Chapter 892, Statutes of 2001), enacted provisions of law (California *Education Code* (*EC*) Section 47612.5) that established the eligibility requirements for apportionment funding for charter schools that offer nonclassroom-based instruction. The statute specifies that a charter school may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to *EC* Section 47634.2 by the SBE. The law provides the SBE with the authority to adjust the apportionment of charter schools that offer nonclassroom-based instruction. The law also states that a funding determination by the SBE for nonclassroom-based instruction shall not be more than 70 percent of the unadjusted amount to which a charter would otherwise be

SUMMARY OF PREVIOUS… (Cont.)

entitled, unless the SBE determines that a greater or lesser amount is appropriate based on specified criteria. The statute also specifies that nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study and distance and computer-based education.

Senate Bill 740 also established the ACCS to develop criteria for the SBE to use in making funding determinations for nonclassroom-based programs on the basis of average daily attendance (ADA). Pursuant to *EC* Section 47634.2, these regulations would:

- Ensure instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function, and would consider:
    - The amount of the charter school's total budget expended on certificated employee salaries and benefits, and on school sites
    - The pupil-teacher ratio in the school

Subsequently, regulations were adopted in the *California Code of Regulations*, Title 5 (5 *CCR*) sections 11963.4 and 11963.6. These regulations specify funding levels for a nonclassroom-based charter school.

Pursuant to 5 *CCR* Section 11963.4(a), a nonclassroom-based charter school may qualify for 70 percent, 85 percent, or 100 percent funding, or may be denied. To qualify for 100 percent funding, a nonclassroom-based charter school must meet the following criteria:

- At least 40 percent of the school's public revenues must be spent on employee salaries and benefits for instructional services or support
- At least 80 percent of all revenues must be spent on instruction and related services
- The ratio of ADA for independent study pupils to full-time certificated employees does not exceed 25:1, or the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district in the county or counties in which the charter school operates

However, 5 *CCR* Section 11963.4(e) states that the ACCS may find a "reasonable basis" (also referred to as a mitigating circumstance) by which to make a recommendation other than one that results from the criteria specified in the regulations.

SUMMARY OF KEY ISSUES

5 *CCR* Section 11963.4(e) provides specific examples of the types of mitigating circumstances and for the ACCS to consider well documented "one-time or unique or exceptional circumstances." Mitigating circumstances described by a charter school in the funding determination process clarify and provide guidance as to whether or not a specific charter school meets the percentage requirements for a funding determination as expressed in 5 *CCR* Section 11963.4(a).

Pursuant to 5 *CCR* Section 11963.4(e):

> A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

Pursuant to 5 *CCR* Section 11963.4(e), the Academy of Personalized Learning, Golden Valley Virtual Charter, California Virtual Academy Los Angeles, Mark West Charter, Merced Scholars Charter, Mountain Peak Charter, Independence Charter and Sherman Thomas Charter are requesting consideration under 5 *CCR* Section 11963.4(e) from the regulatory requirements for a funding determination rate.

The basis of the Academy of Personalized Learning's (APL's) request includes:

- the exclusion of set-aside funds used to establish a Reserve for Economic Uncertainty that is necessary to mitigate the impact of the state budget crisis

The APL is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although APL's expenditures of 53.77 percent on certificated staff costs exceed the 40 percent regulatory requirement, the charter school's expenditures of 71.70 percent on instruction and related services and allowable facilities costs do not meet the 80 percent regulatory requirement and make it ineligible

SUMMARY OF KEY ISSUES (Cont.)

for a 100 percent determination rate. Based on APL's documentation, the charter school would qualify for an 85 percent determination rate but it is instead requesting a 100 percent determination rate with the consideration of its mitigating circumstances.

The basis for the Golden Valley Virtual Charter (GVVC) request includes:

- revenue losses due to lower enrollment and attendance that resulted from a higher than anticipated number of dropouts and recovery students
- exclusion for non-instructional startup and fixed administrative operating costs that are excluded from the calculations required under SB 740 regulatory guidelines
- exclusion for a mandatory minimum reserve requirement

GVVC is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although GVVC expenditures of 87.30 percent on certificated staff costs exceed the 40 percent regulatory requirement, the charter school's expenditures of 75.12 percent on instruction and related services costs do not meet the 80 percent regulatory requirement and make it ineligible for a 100 percent determination rate. Based on GVVC documentation, the charter school would qualify for an 85 percent determination rate but it is instead requesting a 100 percent determination rate with the consideration of its mitigating circumstances.

The basis of the California Virtual Academy Los Angeles' (CAVA–LA's) request includes:

- deferred payments of state apportionment funds
- non-instructional and fixed administrative operating costs that are excluded from the calculations required under SB 740 regulatory guidelines

Included in the CAVA-LA's mitigating circumstances request is a request for the following:

- allocate 70 percent of its expenditures to instruction and related services costs
- allocate 35 percent of its expenditures to certificated staffing costs
- exclusion of one-time funding sources
- record the receipt of deferred state funds on an accrual basis

SUMMARY OF KEY ISSUES (Cont.)

CAVA–LA is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although CAVA–LA's expenditures of 83.57 percent on instruction and related services costs exceed the 80 percent regulatory requirement, the charter school's expenditures of 35.54 percent on certificated staff costs do not meet the 40 percent regulatory requirement and make it ineligible for a 100 percent determination rate. Based on CAVA–LA's documentation, the charter school would qualify for a 70 percent determination rate but it is instead requesting a 100 percent determination rate with the consideration of its mitigating circumstances. Additionally, approval of CAVA–LA's request would allow the charter school to allocate expenditures of 70 percent on instruction costs and 35 percent on certificated staff costs.

The basis of the Mark West Charter's (MWC's) request includes:

- non-instructional related costs for district-leased classrooms, oversight fees, facilities use, and contract district staff

MWC is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although MWC's expenditures of 45.12 percent on certificated staff costs exceed the 40 percent regulatory requirement, the charter school's expenditures of 60.17 percent on instruction and related services costs do not meet the 80 percent regulatory requirement and make it ineligible for a 100 percent determination rate. Based on MWC's documentation, the charter school would qualify for a 70 percent determination rate but it is instead requesting a 100 percent determination rate with the consideration of its mitigating circumstances.

The basis of the Merced Scholars Charter's (MSC's) request includes:

- deferrals of state apportionment funds resulting in a cash flow crisis that was partially offset by the local education agency cash flow transfer

- increase minimum reserves threshold to address multi-year budget crisis

- exclusion of one-time funding sources

Included in the MSC's mitigating circumstances request is a request for the following:

- allocate 66 percent of its expenditures to instruction and related services costs

MSC is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although MSC's expenditures of 45.06 percent on certificated staff costs exceed the 40 percent regulatory requirement, the charter school's expenditures of 67.28 percent on instruction and related services and allowable facilities costs do not meet the 80 percent regulatory requirement and make it ineligible for a 100

SUMMARY OF KEY ISSUES (Cont.)

percent determination rate. Based on MSC's documentation, the charter school would qualify for a 70 percent determination rate but it is instead requesting a 100 percent determination rate with the consideration of its mitigating circumstances. Additionally, approval of MSCS's request would allow the charter school to allocate expenditures of 66 percent on instruction and related services costs.

The basis of the Mountain Peak Charter's (MPC's) request includes:

- increased costs for leased facilities for four learning centers located in three counties

- increased curriculum and instructional costs for a resource library due to higher than anticipated student enrollment

MPC is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although MPC's expenditures of 41.53 percent on certificated staff costs exceed the 40 percent regulatory requirement, the charter school's expenditures of 56.90 percent on instruction and related services and allowable facilities costs do not meet the 80 percent regulatory requirement and make it ineligible for a 100 percent determination rate. Based on MPC's documentation, the charter school would qualify for a zero percent determination rate but it is instead requesting a 100 percent determination rate with the consideration of its mitigating circumstances.

The basis of the Sherman Thomas Charter's (STC's) request includes:

- the exclusion of one-time funding sources

The STC is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although STC's expenditures of 85.03 percent on certificated staff costs exceed the 40 percent regulatory requirement, the charter school's expenditures of 55.92 percent on instruction and related services and allowable facilities costs do meet the 80 percent regulatory requirement and make it ineligible for a 100 percent determination rate. Based on STC's documentation, the charter school would qualify for a zero percent determination rate. However, based on the charter school's prior year second period average daily attendance of less than 100 units (12), it is instead requesting serious consideration for a 100 percent determination rate pursuant to 5 *CCR* 11963.4(e).

The basis of the Independence Charter's (IC's) request includes:

- prior year second period average daily attendance of less than 100 units

SUMMARY OF KEY ISSUES (Cont.)

The IC is requesting a 100 percent determination rate and relief from the current 5 *CCR* regulatory requirements. Although ICS's expenditures of 104.14 percent on certificated staff costs exceed the 40 percent regulatory requirement, the charter school's expenditures of 72.44 percent on instruction and related services costs do not meet the 80 percent regulatory requirement and make it ineligible for a 100 percent determination rate. Based on ICS's documentation, the charter school would qualify for an 85 percent determination rate. However, based on the charter school's prior year second period average daily attendance of less than 100 units (14.27), it is instead requesting serious consideration for a 100 percent determination rate pursuant to 5 *CCR* 11963.4(e).

Table 1 provides SBE-approved current funding rates for Academy of Personalized Learning, Golden Valley Virtual Charter, California Virtual Academy Los Angeles, Mark West Charter, Merced Scholars Charter and Mountain Peak Charter.

Table 2 provides API and AYP results for Academy of Personalized Learning, Golden Valley Virtual Charter, California Virtual Academy Los Angeles, Mark West Charter, Merced Scholars Charter, Mountain Peak Charter, Independence Charter and Sherman Thomas Charter schools as background information.

Table 3 provides information on the schools' mitigating circumstances requests.

SUMMARY OF KEY ISSUES (Cont.)

Table 1: SBE Approved Current Funding Rate

Charter #	Charter School's Name	Current Funding Rate	Expiration of Current Funding Rate	Years
1113	Academy of Personalized Learning	100%	2010-11	2
1133	Golden Valley Virtual Charter	100%	2010-11	2
0838	California Virtual Academy Los Angeles	100%	2010-11	2
0616	Mark West Charter	100%	2010-11	5
0631	Merced Scholars Charter	100%	2010-11	3
1090	Mountain Peak Charter	100%	2010-11	2
1098	Independence Charter	^	^	^
1058	Sherman Thomas Charter	^	^	^

^–Does not have a SBE-approved funding determination.

Table 2: Background Information: Academic Performance Data for Charter Schools For Consideration of Mitigating Circumstances Requests

		2009–10 Accountability Progress Reporting			2008–09 Accountability Progress Reporting			2007–08 Accountability Progress Reporting		
		API		AYP	API		AYP	API		AYP
Charter School	First Year of Oper-ation	2010 Growth API (Change)	2009 State-wide/ Similar School Decile Rank	2010 Met AYP Criteria (Number of Criteria Met)	2009 Growth API (Change)	2008 State-wide/ Similar School Decile Rank	2009 Met AYP Criteria (Number of Criteria Met)	2008 Growth API (Change)	2007 State-wide/ Similar School Decile Rank	2008 Met AYP Criteria (Number of Criteria Met)
Academy of Personalized Learning	2009	720 (*)	*	No (7/13)	N/A	N/A	N/A	N/A	N/A	N/A
Golden Valley Virtual Charter	2009	*	*	*	N/A	N/A	N/A	N/A	N/A	N/A
California Virtual Academy Los Angeles	2008	748 (4)	3/5	No (17/23)	746 (-4)	4/7	No (18/28)	747 (-1)	5/5	No (22/26)
Mark West Charter	2004	848 (-9)	8/9	No (8/9)	859 (36)	8/*	Yes (9/9)	828 (29)	8/*	Yes (7/7)
Merced Scholars Charter	2004	770 (16)	7/*	Yes (5/5)	754 (23)	6/*	Yes (6/6)	732 (-28)	8/*	No (5/6)
Independence Charter	2009	*	*	*	N/A	N/A	N/A	N/A	N/A	N/A
Sherman Thomas Charter	2009	749 (*)	*	Yes (4/4)	N/A	N/A	N/A	N/A	N/A	N/A
Mountain Peak Charter	2009	712 (*)	*	No (9/17)	N/A	N/A	N/A	N/A	N/A	N/A

*–Indicates no reported data are available. **–Alternative Schools Accountability Model (ASAM) schools do not have reported data for API ranks or targets.
N/A–Note the first year of operation.

SUMMARY OF KEY ISSUES (Cont.)

Table 3: Mitigating Circumstances Request by Charter School

Charter #	Charter School's Name	Spending on instructional costs	Spending on certificated staff compensation	One-time funding sources excluded	Coping with cash flow deferrals	Allow-able facilities cost	Reserves
1113	Academy of Personalized Learning	71.70%	53.77%	Yes	Yes	Yes	Yes
1133	Golden Valley Virtual Charter	75.12%	87.30%	No	Yes	Yes	Yes
0838	California Virtual Academy Los Angeles	83.57%	35.54%	Yes	Yes	N/A	N/A
0616	Mark West Charter	60.17%	45.12%	No	Yes	No	No
0631	Merced Scholars Charters	67.28%	45.06%	Yes	Yes	Yes	Yes
1090	Mountain Peak Charter	56.90%	41.53%	No	Yes	Yes	N/A
1098	Independence Charter	72.44%	104.14%	No	Yes	No	No
1058	Sherman Thomas Charter	55.92%	85.03%	Yes	Yes	Yes	Yes

FISCAL ANALYSIS (AS APPROPRIATE)

If the charter schools' requests for mitigating circumstances are approved, the CDE has determined that there is no addition fiscal impact to the state since the charter schools will continue to get funded at the currently approved 100 percent determination rates.

If the requests for mitigating circumstances are denied for the charter schools, and the schools do not meet the regulatory requirements for a 100 percent funding determination rate, the apportionment claims to the state would be reduced to a lower determination rate or denied, resulting in savings of state funds.

ATTACHMENT(S)

Attachment 1: Funding Recommendations (1 page)

Attachment 2: Excerpts from the California *Education Code* and Implementing Regulations with Regard to SB 740 Funding Determinations (4 pages)

Attachment 3: Mitigating Circumstances Request for Academy of Personalized Learning (1 Page)

Attachment 4: Mitigating Circumstances Request for Golden Valley Virtual Charter (2 Pages)

Attachment 5: Mitigating Circumstances Request for California Virtual Academy Los Angeles (2 Pages)

Attachment 6: Mitigating Circumstances Request for Mark West Charter (2 Pages)

Attachment 7: Mitigating Circumstances Request for Merced Scholars Charter (2 Pages)

Attachment 8: Mitigating Circumstances Request for Mountain Peak Charter (1 Page)

Attachment 9: Mitigating Circumstances Request for Sherman Thomas Charter (2 Pages)

Attachment 10: Mitigating Circumstances Request for Independence Charter (1 Page)

Funding Recommendations

100% Recommendation for Two Years–Continuing Schools
Fiscal Year 2010–11 through 2011–12

Charter #	County	School	First Year of Operation	ACCS and CDE Recommendation
1058	Madera	Sherman Thomas Charter^	2009	100% 2 Years
1098	Stanislaus	Independence Charter^	2009	100% 2 Years

^–Does not have a SBE-approved funding determination.

100% Recommendation for Three Years–Continuing Schools
Fiscal Year 2011–12 through 2013–14

Charter #	County	School	First Year of Operation	ACCS and CDE Recommendation
1113	Shasta	Academy of Personalized Learning	2009	100% 3 Years
1133	Ventura	Golden Valley Virtual Charter	2009	100% 3 Years
0838	Los Angeles	California Virtual Academy Los Angeles	2008	100% 3 Years
1090	San Diego	Mountain Peak Charter	2009	100% 3 Years

100% Recommendation for Five Years–Continuing Schools
Fiscal Year 2011–12 through 2015–16

Charter #	County	School	First Year of Operation	ACCS and CDE Recommendation
0616	Sonoma	Mark West Charter	2004	100% 5 Years
0631	Merced	Merced Scholars Charter	2004	100% 5 Years

Excerpts from the California *Education Code* and Implementing Regulations with Regard to SB 740 Funding Determinations

California *Education Code* Section 47612.5
General Requirements

(d)(1) Notwithstanding any other provision of law and except as provided in paragraph (1) of subdivision (e), a charter school that has an approved charter may receive funding for nonclassroom-based instruction only if a determination for funding is made pursuant to Section 47634.2 by the State Board of Education. The determination for funding shall be subject to any conditions or limitations the State Board of Education may prescribe. The State Board of Education shall adopt regulations on or before February 1, 2002, that define and establish general rules governing nonclassroom-based instruction that apply to all charter schools and to the process for determining funding of nonclassroom-based instruction by charter schools offering nonclassroom-based instruction other than the nonclassroom-based instruction allowed by paragraph (1) of subdivision (e). Nonclassroom-based instruction includes, but is not limited to, independent study, home study, work study, and distance and computer-based education. In prescribing any conditions or limitations relating to the qualifications of instructional personnel, the State Board of Education shall be guided by subdivision (l) of Section 47605.

(d)(2) Except as provided in paragraph (2) of subdivision (b) of Section 47634.2, a charter school that receives a determination pursuant to subdivision (b) of Section 47634.2 is not required to reapply annually for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. A charter school that has achieved a rank of 6 or greater on the Academic Performance Index for the two years immediately prior to receiving a funding determination pursuant to subdivision (b) of Section 47634.2 shall receive a five-year determination and is not required to annually reapply for a funding determination of its nonclassroom-based instruction program if an update of the information the State Board of Education reviewed when initially determining funding would not require material revision, as that term is defined in regulations adopted by the board. Notwithstanding any provision of law, the State Board of Education may require a charter school to provide updated information at any time it determines that a review of that information is necessary. The State Board of Education may terminate a determination for funding if updated or additional information requested by the board is not made available to the board by the charter school within a reasonable amount of time or if the information otherwise supports termination. A determination for funding pursuant to Section 47634.2 may not exceed five years.

California *Education Code* Section 47634.2
Nonclassroom-based instruction; funding determinations and allocations

(a)(1) Notwithstanding any other provision of law, the amount of funding to be allocated to a charter school on the basis of average daily attendance that is generated by pupils engaged in nonclassroom-based instruction, as defined by paragraph (2) of subdivision

(d) of Section 47612.5, including funding provided on the basis of average daily attendance pursuant to Sections 47613.1, 47633, 47634, and 47664, shall be adjusted by the State Board of Education. The State Board of Education shall adopt regulations setting forth criteria for the determination of funding for nonclassroom-based instruction, at a minimum the regulation shall specify that the nonclassroom-based instruction is conducted for the instructional benefit of the pupil and substantially dedicated to that function. In developing these criteria and determining the amount of funding to be allocated to a charter school pursuant to this section, the State Board of Education shall consider, among other factors it deems appropriate, the amount of the charter school's total budget expended on certificated employee salaries and benefits and on schoolsites, as defined in paragraph (3) of subdivision (d) of Section 47612.5, and the teacher-to-pupil ratio in the school.

***California Code of Regulations,* Title 5 Section 11963.4**
Evaluation of Determination of Funding Requests Regarding Nonclassroom-Based Instruction

(a) When a complete determination of funding request is received from a charter school, it shall be reviewed by the California Department of Education and presented to the Advisory Commission on Charter Schools, along with credible information pertaining to the request obtained from any other source. The Advisory Commission shall develop a recommendation pursuant to this section to the State Board of Education regarding the request, and that recommendation shall be presented to the State Board of Education by the California Department of Education. The following criteria shall guide the process of reviewing and developing a recommendation on the request. The California Department of Education shall report any difference of opinion between the California Department of Education and the Advisory Commission as to the recommendation presented to the State Board of Education.

(1) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals at least 35 percent but less than 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 60 percent but less than 70 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 70 percent, unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(2) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, and the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals at least 70 percent but less than 80 percent, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 85 percent, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying a percentage that is greater than 70 percent and, if the recommended percentage is lower than the requested percentage, the reasons

justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(3) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 equals or exceeds 40 percent, the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 equals or exceeds 80 percent, and the ratio of average daily attendance for independent study pupils to full-time certificated employees responsible for independent study does not exceed a pupil-teacher ratio of 25:1 or the equivalent ratio of pupils to full-time certificated employees for all other educational programs operated by the largest unified school district, as measured by average daily attendance, in the county or counties in which the charter school operates, the Advisory Commission on Charter Schools shall recommend to the State Board of Education approval of the request at 100 percent (i.e. full funding), unless there is a reasonable basis to recommend otherwise. If the recommended percentage is lower than the requested percentage, the recommendation to the State Board shall include the reasons justifying the reduction and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school.

(4) If the percentage calculated pursuant to paragraph (1) of subdivision (c) of section 11963.3 is less than 35 percent, or the percentage calculated pursuant to paragraph (2) of subdivision (c) of section 11963.3 is less than 60 percent, then the charter school's nonclassroom-based instruction is not substantially dedicated to the instructional benefit of the students, and the Advisory Commission on Charter Schools shall recommend that the State Board of Education deny the request, unless there is a reasonable basis to recommend otherwise. The recommendation to the State Board shall include the reasons justifying the denial and, if appropriate, describe how any deficiencies or problems may be addressed by the charter school. Denial of a determination of funding request by the State Board of Education shall result in no funding being apportioned for average daily attendance identified by the charter school as being generated through nonclassroom-based instruction pursuant to Education Code section 47634.2(c).

(5) Any request for a funding determination received prior to the effective date of these regulations will be reviewed pursuant to the criteria in effect at the time of submittal.

(b) The Advisory Commission on Charter Schools and/or the California Department of Education may ask the charter school to provide additional information in order to make possible a more detailed review or to develop a reasonable basis for a recommendation other than those prescribed in subdivision (a). With the consent of the Superintendent of Public Instruction, the request for additional information shall be considered a reasonable inquiry to which the charter school must respond pursuant to Education Code section 47604.3.

(c) Any multi-year funding determination approved by the State Board of Education may be modified by the State Board of Education, in terms of both the multi-year approval and the percentage of funding authorized, if any information that may change the conclusion to approve the original multi-year funding determination is found.

(d) Prior to a recommendation by the Advisory Commission on Charter Schools (that a determination of funding request be denied or approved at a percentage lower than that requested) being forwarded to the State Board of Education, the affected charter school shall be given thirty (30) calendar days in which to amend its determination of funding request and/or to provide additional information in support of the request. Based upon consideration of the amended request or any additional information that may be provided, the Advisory Commission may modify its recommendation to the State Board.

(e) A reasonable basis for the Advisory Commission on Charter Schools to make a recommendation other than one that results from the criteria specified in subdivision (a) may include, but not be limited to, the following: the information provided by the charter school pursuant to paragraphs (2) through (8), inclusive, of subdivision (b) of section 11963.3, documented data regarding individual circumstances of the charter school (e.g., one-time or unique or exceptional expenses for facilities, acquisition of a school bus, acquisition and installation of computer hardware not related to the instructional program, special education charges levied on the charter school by a local educational agency, restricted state, federal, or private grants of funds awarded to the charter school that cannot be expended for teacher salaries, or contracted instructional services other than those for special education), the size of the charter school, and how many years the charter school has been in operation. The Advisory Commission on Charter Schools shall give charter schools with less than a total of one hundred (100) units of prior year second period average daily attendance or that are in their first year of operation serious consideration of full funding.

***California Code of Regulations,* Title 5 Section 11963.6**
Submission and Action on Determination of Funding Requests Regarding Nonclassroom-Based Instruction

Section 11963.6(a) An approved determination of funding for a new charter school in its first year of operation shall be submitted by December 1 and shall be for two fiscal years. Within 90 days after the end of its first fiscal year of operation, a charter school shall submit unaudited actual expense reports and a funding determination form based on the school's actual second-year budget. If the Advisory Commission on Charter Schools determines that the actual expenditures of the charter school or the second year funding determination form do not support the funding determination for the second year, the Advisory Commission on Charter Schools shall recommend that the State Board of Education revise the funding determination.

Section 11963.6(c) Any determination of funding request approved by the State Board of Education for an existing nonclassroom-based charter school from the 2006-07 fiscal year forward shall be prospective (not for the current year), in increments of a minimum of two years and a maximum of five years in length. Beginning with the 2007-08 fiscal year, nonclassroom-based charter schools that had a funding determination in the prior year must submit a funding determination request by February 1 of the fiscal year prior to the year the funding determination will be effective, when a new request is required under these regulations.

Academy of Personalized Learning

224 Hartnell Avenue Phone: (530) 222-9APL (9275)
Redding, CA 96002 Fax: (530) 222-9281

Request For Mitigating Circumstances

May 10, 2011

California Department of Education
Charter Schools Division
1430 N Street, Suite 5401
Sacramento, CA 95814

Dear CDE Representative:

We request that our first year set-aside for Reserve for Economic Uncertainty of $386,788 (including our 5% minimum reserve plus the additional 2011-12/2012-13 State Budget Crisis reserve) be excluded from the revenue calculation, as it is not feasible for us to simultaneously set aside an adequate financial reserve for 2011-12 and 2012-13 in our first year while still expending 80% of revenues on instruction and related costs. If the amount set aside to fund our reserves is excluded from revenues, we have met the 40%/80% tests.

If there are any questions regarding the attached, please don't hesitate to let us know.

Sincerely,

ACADEMY OF PERSONALIZED LEARNING

Karl Yoder, CFO, DMS

Fully Accredited by the Schools Commission of the
Western Association of Schools and Colleges

To: California Department of Education
Beth Huckapiller, Director, Charter Schools Division
Brian Bauer, Chair, Advisory Commission on Charter Schools

Re: Request for Mitigating Circumstances for Upcoming SB740 Funding Determination Period for Golden Valley Virtual Charter School

We are requesting your consideration in granting us 100% funding for five years in our SB740 funding determination due to mitigating circumstances. Without full funding, we are almost certain that we will be unable to continue to operate. We are currently in our second year of operation, with the financial data reported in the attached funding determination application reflective of our first year of operation. Although we easily met the spending requirement for certificated salaries (44.11%), our total instructional costs represented only 75.12% of our revenues. We were unable to limit our non-instructional costs to 20% in our first year of operation for the following reasons:

Revenue loss due to enrollment
With more than ten years of experience in serving students in a non classroom-based environment, our initial projected enrollment was a conservative 50 for year one. At that level, our budget was designed to meet the stringent SB740 spending requirements for non classroom-based charters. However, for our new virtual school, we did not anticipate serving a significantly large number of drop out/recovery students, and experienced difficulty in keeping these students on track and enrolled. Enrollment fell through the year as follows: September (59), November (71), January (48), March (41), May (34), and June (25). This resulted in an approximate loss in revenue of $132,167.

Revenue loss due to attendance
The students we were serving who remained enrolled were unable or unwilling to attend school virtually on a daily basis and generate a full day's worth of work daily which we require for apportionment claims. Serving this predominantly dropout/recovery population, which we did not expect to serve in our virtual school environment designed primarily for the accelerated student population, resulted in an unexpectedly low attendance rate of only 85%. This resulted in an approximate loss in revenue of $18,003.

By our estimates, the revenue loss due to attendance and enrollment alone was enough to prevent us from reaching our SB740 spending requirements.

Unavoidable fixed cost obligations
We had a number of unavoidable fixed cost obligations that were critically essential to the effective start up management of our first year school operations. Our most costly obligation, which is specified in our charter, was the business services provided by the Ventura County Schools Business Services Authority (VCSBSA). The VCSBSA has established a minimum fee for all charter schools of $31,400., regardless of enrollment. This fee totaled 9.23 % of our total revenue.

Additional unavoidable fixed and other administrative-related cost obligations included: audit fee, liability insurance, authorizing district oversight fee, and legal fees. These fees combined totaled 6.64 % of our total revenue.

Mandated reserve requirement

As a mandated requirement in our MOU agreement with our authorizer, Mesa Union, we had no choice but to put remaining funds into reserves rather than spend unnecessarily on curriculum not necessary in our first year. We are required to maintain a reserve that is equivalent to that of a school district of similar size. The minimum reserve requirement for schools with an ADA of 0-300 is $60,000. After meeting financial obligations including certificated salaries and fixed cost obligations, we were only able to put into reserve $ 21,482 (includes lottery). With an almost certain reduction in per pupil funding in future years, this has proved to be a prudent requirement to ensure our school's sustainability in these challenging and prolonged budget crisis times. This totaled 6.31% of our total revenue.

Longevity and experience

Golden Valley Virtual Charter School's (GVVCS) founder and Executive Director has effectively led Golden Valley Charter School (GVCS) for ten years. GVVCS is managed by the same board of directors as GVCS; is authorized by the same district, Mesa Union Elementary School District, as GVCS; and uses the same sound business services provider and auditor as both GVCS and Mesa Union. GVCS, a non classroom-based charter in its 11th year with an API of 800 and which has consistently met SB740 spending requirements, received a five-year 100% funding determination in January, 2011. GVVCS has already received full WASC accreditation. We are certain that once this new school is established, we will be able to meet reasonable spending requirements according to the budget climate. We are all aware of the overwhelming challenges facing new start up charter schools in these very challenging and unpredictable fiscal times. Additional flexibility consideration in the SB740 funding determination process is absolutely essential to help support struggling schools like ours to establish some semblance of fiscal predictability in order to effectively manage our program, weather this storm, and serve our students successfully.

We are requesting your consideration in granting us 100% funding for five years. Without full funding, we are almost certain that we will be unable to continue to operate.

Thank you for your consideration,

Terri Adams, Executive Director

Golden Valley Virtual Charter School

CALIFORNIA
VIRTUAL ACADEMIES℠

2360 Shasta Way
Suite A
Simi Valley, CA 93065

ph. 805.581.0202
fx: 805.581.0330
www.caliva.org

March 15, 2011

Members of the ACCS
Charter Schools Division
California Department of Education
1430 N Street
Sacramento, CA 95814

MAR 21 2011

REF: SB 740 Mitigating Circumstances, California Virtual Academy @ Los Angeles, #0838

Dear Members of the ACCS,

Please accept this letter as our request for budgetary relief under the SB 740 guidelines for mitigating circumstances of the funding determination for the California Virtual Academy @ Los Angeles.

As was discussed by the ACCS last year, meeting the SB 740 expenditure targets is and has been be challenging over the past year due to the state budget crisis. From the recent budgetary news, it appears those challenges will continue in the near future without relief. Many of the costs that do not count toward the current SB 740 targets are "fixed" in nature and in fact have increased this year (utilities, insurance, etc.). The school has relatively little control over them and they are very difficult to reduce or eliminate.

Due to the current and forecasted future budget crisis in California we respectfully request the granting of mitigating circumstances in the following areas:

- **"Spending on instructional costs**—the school will direct at least 70 (seventy) percent of its expenditures to "instruction and related services" costs.
- **Spending on certificated staff compensation**—the school will direct at least 35 percent of its expenditures toward eligible certificated staffing costs.
- **One-time funding sources excluded**—when calculating the above spending targets thresholds, the school will exclude "one-time" funding sources (e.g., federal stimulus funding).
- **Coping with cash flow deferrals**—for funding determination purposes, the school will book the receipt of deferred state funding on an accrual basis.

We believe these are reasonable requests and the budget crisis provides a "reasonable basis" for the provision of "Funding Determination" mitigating circumstances during this difficult financial period in California.

The request of California Virtual Academy @ Los Angeles includes the understanding that with meeting the above mitigated criteria for our expenditures in the 2011-12 through 2012-13 fiscal years will allow the school to continue with a 100% funding determination for the period of its current determination or until such time the ACCS determines the budget situation in the state no longer requires the continuance of these measures. This is consistent with the period of flexibility that has been provided to school districts through the 2012-13 fiscal years.

By submission and approval of this request the California Virtual Academy @ Los Angeles provides the assurance that it will maintain the above stated expenditure and student ratio targets for the duration of its most current funding determination.

Respectfully,

Katrina Abston

Katrina Abston
Head of School

5350 Faught Road, Santa Rosa, CA 95403
Phone: (707) 524-2741
Fax: (707) 524-2782

Pam Carpenter, Director

RECEIVED
APR 04 2011
CHARTER SCHOOLS DIVISION

BOARD MEMBERS
Shannon Currie
Deanna Diaz
Laura Horton
Jennifer Langer
Sofia McKnight
Kay Schultz, Advisor

March 28, 2011

To: Jay Harris, Education Programs Consultant, Charter Schools Division
Beth Hunkapiller, Division Director, Charter Schools Division
Advisory Commission on Charter Schools (ACCS)

RE: Mitigating Circumstances Request for 2010-11 Nonclassroom-Based Funding Determination Application – Mark West Charter School #616

Mark West Charter School would like to submit information to be taken into consideration when making a determination for the recently submitted 2010-11 Nonclassroom-Based Funding Determination Application sent for the Mark West Charter School. Many items put forth in the Memorandum of Understanding between the Mark West Charter School and the sponsoring district, Mark West Union School District, restrict the ability of the school to alter the percentage of funding expensed for non-instructional purposes.

1) Classroom Lease charges are based on actual cost to the Mark West Union School District for buildings being used by the Mark West Charter School with the objective of the Charter School to remain revenue/expense neutral to the sponsoring district. The cost is calculated annually based on the Mark West Charter Schools need for facilities and the availability of District owned classroom space. In the 2009-10 fiscal year $67,566 was paid to Mark West Union School District leased classroom space or 9% of total expenses.

2) The Memorandum of Understanding between the Mark West Charter School and the sponsoring district, Mark West Union School District, specifies that 1% of General Purpose Block Grant revenue and Categorical Block Grant revenue be charged to the charter school for oversight purposes. This fee is considered a non-instructional expense. As this is a requirement of the MOU the charter school does not have the ability to alter the percentage of non instructional expenses in this area, unless mutually agreed to during MOU discussions. In the 2009-10 fiscal year $6,930 was paid to Mark West Union School District for District Oversight.

3) The Memorandum of Understanding between the Mark West Charter School and the sponsoring district, Mark West Union School District, specifies that 6.5% of General Purpose Block Grant revenue be charged to the charter school for Facilities Use. This fee is considered a non-instructional expense. As this is a requirement of the MOU the charter school does not have the ability to alter the percentage of non instructional expenses in this area, unless mutually agreed to during MOU discussions. In the 2009-10 fiscal year $41,458 was paid to Mark West Union School District for Facilities Use.

4) The Mark West Charter School contracts for all staff through the sponsoring district, Mark West Union School District. As a result the Charter School is subject to all requirements of the District negotiated bargaining agreements without the benefit of input. Salary schedules, health and welfare benefits and in part staffing levels (as they relate to language for hourly employees within the bargaining agreement) are dictated by the District as the employer. The Charter School does not have full ability to adjust instructional cost related to staffing and employment.

If you need further clarification regarding this information, please contact Anne Kopache at akopache@mwcharter.org. Thank you for your consideration and attention to this matter.

Sincerely,

Pam Carpenter
Director

Anne Kopache
Business Manger

Merced Scholars Charter Sc

Merced Scholars
CHARTER SCHOOL

March 14, 2011

MAR 18 2011

TO: California Department of Education
Charter Schools Division, Beth Hunkapiller, Director
Advisory Commission on Charter Schools (ACCS)

RE: Request for Budget Crisis Mitigating Circumstances for current SB740 Funding Determination period.

We are writing to request that Merced Scholars Charter School, for the current SB740 funding determination period be granted greater expenditure flexibility in the specific area's listed below.

The current state budget crisis, which has resulted in dramatic cuts to our annual budget and the **deferrals of funding apportionment,** has caused unprecedented financial hardship and challenges to our school. As a result we needed a cash flow transfer from our sponsoring LEA so that we could meet our monthly expenditure costs. Both the ending balance from prior fiscal year and the "reserve for designated economic uncertainties" include this transfer amounts.

The areas that we are requesting flexibility in are:

Spending on Instructional Costs – Due to the cash flow crisis we were and continue to be highly conservative on all spending. We are requesting a 14% reduction (flexibility) in our spending for "instruction and related services" cost. This reduction would allow us to spend 66% of our revenues on "instruction and related services" costs rather than the current requirement to spend 80% to qualify for 100% funding. This 14% would allow our Charter school additional funds available to better manage our financial situation during these tumultuous cash flow times. In the 2009/10 fiscal year alone we needed a $200,000 cash flow transfer from our LEA to meet our monthly expenditure needs.

Reserves - We would like to request permission to establish and maintain reserves at 10% of expenditures, whereas the current law stipulates a 5% reserve threshold. This change would equate to about $75,000 or 10% of total expenditures for the current year which would enable us to establish more conservative reserves to deal with this multi-year budget crisis.

One-time funding sources excluded: We request to exclude "one-time" funding sources when calculating spending targets (e.g. federal stimulus funding). This proposal corresponds with flexibility previously provided during years when "excess" state revenues permitted the creation of substantial new and "one-time" categorical funding sources. During such years charter schools were permitted to exclude their "receipts" from these "one-time" programs when calculating their funding determinations.

Steven E. Gomes, Superintendent of Schools
808 W. 16th Street • Merced, California 95340 • (209) 381-5165 • http://charter.mercedlearn.org/

Merced Scholars Charter Sc

Merced Scholars
CHARTER SCHOOL

As stated in Title 5, section #11963.4 (e) we believe this is a reasonable basis for you to consider recommending our school for 100% funding. These are reasonable requests and the budget crisis provides a "reasonable basis" for the provision of "Funding Determination" mitigating circumstances during this difficult financial period in California.

This request of Merced Scholars Charter School includes the understanding that with meeting the above mitigated criteria for our expenditures in the 2009/10 through 2012/13 fiscal years will allow us to continue with a 100% funding determination for the period of its current determination or until such time the ACCS determines the budget situation in the state no longer requires the continuance of these measures. This is consistent with the period of flexibility that has been provided to school districts through the 2012/13 fiscal years.

By submission and approval of this request the Merced Scholars Charter School provides the assurance that it will maintain the above stated expenditure ratio targets for the duration of its most current funding determination period.

Sincerely,

Debbie K Gomes

Debbie K Gomes
Business Manager
Merced County Office of Education
Merced Scholars Charter School

Steven E. Gomes, Superintendent of Schools
808 W. 16th Street • Merced, California 95340 • (209) 381-5165 • http://charter.mercedlearn.org/

Mountain Peak
Charter School

Administrative Offices
3220 Executive Ridge Dr. Ste. 160, Vista, CA 92081
Phone 760.727.7980 Fax 760.727.7295
www.mountainpeakcharter.org

APR 04 2011

March 28, 2011

California Charter School Division
Atten: Jay Harris
1430 N Street, Suite 5401
Sacramento, CA 95814-5901

Dear Mr. Harris:

Mountain Peak Charter School ("MPCS") offers the following as mitigating circumstances to request a 100% funding determination. 2009-2010 was the school's first year of operation and in 2010-2011 MPCS plans to make progress while committing funds and resources to promote academic achievement and instructional effectiveness.

While MPCS is an independent study charter, we very much believe that students are successful when they receive academic support on a consistent basis, which is why learning center classes are provided. We expend a fairly significant amount on leases to maintain a number of learning centers (Vista, Chula Vista, Tustin, and San Jacinto), which are spread across three counties (San Diego, Orange, and Riverside). In 2009-2010, a majority of Services & Operating Costs ($393,395 out of a total of $542,794) as noted in Section III-B(2)(c) were committed to rent payments associated with leases for these aforementioned learning centers. Students are very much encouraged to take learning center enrichment classes, use the school's computer labs, and/or meet face-to-face with teachers for tutorial support or other academic assistance.

The school maintains a Resource Library that is continually being updated with new curriculum to support student learning. A large number of used textbooks were acquired towards the beginning of the 2009-2010 school year at a discount from another charter school that was closing, resulting in lower expenditures for Books & Supplies. However, with increased student enrollment from 2009-2010, heading into 2010-2011 with growth targets of approximately 6-9%, increased levels of expenditures for instructional materials should be higher year over year.

The student / teacher ratio is at 19:1 and is expected to steadily rise to meet the target of 25:1 in accordance with overall student enrollment trends and normalization of staffing levels.

Sincerely,

Elmer Lee
Managing Director – Business Services

Where there are many paths to a relevant education...

MAY 11 2011

SHERMAN THOMAS CHARTER HIGH SCHOOL

May 9, 2011

Jay Harris
Nonclassroom-based Funding Determinations
Charter Schools Division
1430 N Street, Suite 5401
Sacramento, Ca 95814

Dear Mr. Harris,

Sherman Thomas Charter High School (STCHS) is requesting the staff of CDE to consider the $137,462 received for the Public Charter Schools Grant Program (PCSGP) Start-up grant to be looked at as a mitigating factor. We would ask that CDE take the Public Charter Schools Grant Program (PCSGP) grant out of the equation for Total Public Revenue in the formula in determining the funding eligibility. If it is taken out, STCHS expenses jump compared to revenue to about 125% which is well above the requirement. This would also exceed the 40% level of Certificated staff compensation of Total Public Revenue as well as the Total Expenditures on Instruction and Related Services would increase to over 80% and cause STCHS to be funded at the 100% funding level. Our pupil to teacher ratio will not exceed the 25:1 ratio.

The PCSGP grants are "one time" funds which we received $137,462 with a September 30, 2010 date which time was a factor in which we had to use the funds. The use of these funds were necessary to pay for staff salaries/benefits, books, computers/software, facility renovations for the American Disability Act and all instructional supplies for the first year (2009-10) of operation of Sherman Thomas Charter High School.

We received apportionment amounting to $58,812 for FY 2010 in October (one time) then P-1 from March-May, of this we carried over $39,078 to begin FY 2011. With the state mandated apportionment deferrals in place and STCHS having no exemption of deferral (due in part to the Start Up Grant allowing us to remain in the black for the first year of operation) we felt compelled to carryover at least 50% of the apportionment received (we carried over 66%). This carryover allowed us to hire another teacher to the staff as our <u>enrollment tripled</u> the second year of operation. This next year STCHS will also have a sizable increase in student enrollment as we add grade (12).

We will add at least, another teacher and classified staff to monitor and instruct students in required courses and career planning classes. We have just had our initial WASC visit for accreditation.

We request your consideration of these "one time" funds excluded from the calculation and treated as a mitigating factor because they were the only funds available to us to begin the first year of operation.

STCHS has had a tremendous impact on many students in our area and we continue to desire to build a quality and caring charter school to service students of our community.

Sincerely,

Roger Leach
Director

• 101 W. Adell Street • Madera, California 93638 • (559) 674-1192 •

Salida Union School District

District Superintendent
Twila Tosh

Board of Trustees
Dennis Thompson
Catie Englebright
Dr. Gary Dew
Virginia Berry
Ivan Wyeth, II

May 17, 2011

California Department of Education
Non-Classroom Based Funding

To Whom It May Concern:

Salida Union School District is requesting mitigating circumstances in regards to the 2010-11 funding of our charter school, Independence Charter School, so that we can receive full funding.

This request is pursuant to Title 5, California Code of Regulations section 11963.4(e) which states in part: . . with less than a total of one hundred (100) units of prior year second period average daily attendance.

Sincerely,

Lucy Allen for Twila Tosh

Twila Tosh
Superintendent

4801 Sisk Road, Salida, California 95368 • (209) 545-0339 • FAX (209) 545-2682