

**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
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400		NOTICE FILE NUMBER 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:

- | | |
|---|---|
| <input type="checkbox"/> a. Impacts businesses and/or employees | <input type="checkbox"/> e. Imposes reporting requirements |
| <input type="checkbox"/> b. Impacts small businesses | <input type="checkbox"/> f. Imposes prescriptive instead of performance standards |
| <input type="checkbox"/> c. Impacts jobs or occupations | <input type="checkbox"/> g. Impacts individuals |
| <input type="checkbox"/> d. Impacts California competitiveness | <input type="checkbox"/> h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.) |

h. (cont.) _____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: _____ Describe the types of businesses (Include nonprofits): _____

Enter the number or percentage of total businesses impacted that are small businesses: _____

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain: _____

4. Indicate the geographic extent of impacts: Statewide Local or regional (list areas): _____

5. Enter the number of jobs created: _____ or eliminated: _____ Describe the types of jobs or occupations impacted: _____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

 Yes No

If yes, explain briefly: _____

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ _____

a. Initial costs for a small business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

b. Initial costs for a typical business: \$ _____ Annual ongoing costs: \$ _____ Years: _____

c. Initial costs for an individual: \$ _____ Annual ongoing costs: \$ _____ Years: _____

d. Describe other economic costs that may occur: _____

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

2. If multiple industries are impacted, enter the share of total costs for each industry: _____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ _____

4. Will this regulation directly impact housing costs? Yes No If yes, enter the annual dollar cost per housing unit: \$ _____ and the number of units: _____

5. Are there comparable Federal regulations? Yes No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ _____

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: _____

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority?
Explain: _____

3. What are the total statewide benefits from this regulation over its lifetime? \$ _____

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: _____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$ _____	Cost: \$ _____
Alternative 1:	Benefit: \$ _____	Cost: \$ _____
Alternative 2:	Benefit: \$ _____	Cost: \$ _____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: _____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? Yes No

Explain: _____

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.)
Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million ? Yes No *(If No, skip the rest of this section)*

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: \$ _____ Cost-effectiveness ratio: _____

Alternative 1: \$ _____ Cost-effectiveness ratio: _____

Alternative 2: \$ _____ Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *(Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)*

1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

a. is provided in (Item _____, Budget Act of _____) or (Chapter _____, Statutes of _____)

b. will be requested in the _____ 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 Section
(FEES, REVENUE, ETC.)
_____ 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.

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
AGENCY SECRETARY ¹	DATE
APPROVAL/CONCURRENCE DEPARTMENT OF FINANCE ²	DATE
APPROVAL/CONCURRENCE PROGRAM BUDGET MANAGER	

FOR PUBLIC RELEASE

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.

**Summary of the Fiscal Impact Analysis for
Title 5, CCR, Regulations Relating to the
Physical Performance Testing Programs**
(version 08/26/05)

The proposed amendments to the regulations should have no impact on local business. The proposed amended regulations make nonsubstantive changes to the current regulations, and amend activities mandated under state and federal statute and are thus not reimbursable in accordance with Sections 17500 et seq. of the Government Code. Additionally, some amended sections may generate a cost savings for the locals. The proposed amendments to the regulations may impose additional costs upon the state which will be absorbed or offset through savings.

SECTION	FISCAL EFFECT ON	
	LOCAL GOVERNMENT	STATE GOVERNMENT
1040	No Fiscal Impact	No Fiscal Impact
1041	No Fiscal Impact	No Fiscal Impact
1042	No Fiscal Impact	No Fiscal Impact
1043	No Fiscal Impact	No Fiscal Impact
1043.2	No Fiscal Impact	No Fiscal Impact
1043.4	Potential Savings	No Fiscal Impact
1043.6	Non Reimbursable Cost	Costs Offset By Savings
1043.8	Non Reimbursable Cost	No Fiscal Impact
1043.10	No Fiscal Impact	No Fiscal Impact
1044	No Fiscal Impact	No Fiscal Impact
1045	Potential Savings	No Fiscal Impact
1046	Potential Savings	No Fiscal Impact
1047	No Fiscal Impact	No Fiscal Impact
1048	No Fiscal Impact	No Fiscal Impact

1 TITLE 5. Education

2 Division 1. California Department of Education

3 Chapter 2. Pupils

4 Subchapter 4. Statewide Testing of Pupils and Evaluation Procedures

5 Article 2. Physical Performance Testing Programs

6
7 § 1040. Definitions of “Pupil.”

8 For the purpose of the physical performance test required by Education Code
9 section 60800, and also referred to as the Physical Fitness Test (PFT), the following
10 definitions shall apply:

11 (a) “Accommodations” means any variation in the assessment environment or
12 process that does not fundamentally alter what the test measures or affect the
13 comparability of scores. Accommodations may include variations in scheduling, setting,
14 aids, equipment, and presentation format as defined in the *Matrix of Test Variations,*
15 *Accommodations, and Modifications for Administration of California Statewide*
16 *Assessments (Matrix)*, a document incorporated by reference. A copy of the *Matrix* can
17 be found on the California Department of Education’s (CDE) Web site at
18 <http://www.cde.ca.gov/ta/tq/sa/documents/matrix5.pdf>.

19 (b) “Annual assessment window” begins on February 1 and ends on May 31 of each
20 school year.

21 (c) “Block schedule” is a restructuring of the school day whereby pupils attend half
22 as many classes, for twice as long.

23 (d) “District Physical Fitness Test Coordinator” is an employee of the school district
24 designated by the superintendent of the district to oversee the administration of the
25 PFT within the district.

26 (e) “FITNESSGRAM[®]” is the California Physical Fitness Test designated by the
27 State Board of Education (SBE), a document incorporated by reference. A copy of the
28 FITNESSGRAM[®] is available on CDE’s Web site at
29 <http://www.cde.ca.gov/ta/tg/pf/documents/healthfitzones.pdf>.

30 (f) “Grade” for the purpose of the PFT means the grade assigned to the pupil by the
31 school district at the time of testing.

1 (g) "Modification" means any variation in the assessment environment or process
2 that fundamentally alters what the test measures or affects the comparability of scores
3 as defined in the *Matrix*.

4 (h) "Pupil" is a person enrolled in a California public school in grade 5, 7 or 9,
5 including those pupils placed in a non-public school through the individualized
6 education program (IEP) process pursuant to Education Code section 56365.

7 (i) "School district" includes elementary, high school, and unified school districts,
8 county offices of education, any charter school that for assessment purposes does not
9 elect to be part of the school district or county office of education that granted the
10 charter, and any charter school chartered by the SBE.

11 (j) "Test administration manual" is the Third Edition
12 FITNESSGRAM/ACTIVITYGRAM or any subsequent edition, a document incorporated
13 by reference. A copy may be obtained from CDE staff in the Standards and
14 Assessment Division.

15 (k) "Test examiner" is an employee of the school district who administers the PFT.

16 (l) "Variation" is a change in the manner in which a test is presented or
17 administered, or in how a test taker is allowed to respond, and includes, but is not
18 limited to accommodations and modification as defined in the *Matrix*.

19 NOTE: Authority cited: Sections 33031 60601 and 60603, Education Code. Reference:
20 Sections 60603 and 60608, Education Code.

21
22 **§ 1041. Required Program.**

23 (a) During the period annual assessment window of ~~March-May~~, inclusive, the
24 governing board of each school district maintaining grades 5, 7, and 9 10, or any one or
25 more of such grades, shall administer to each pupil in those grades the physical
26 performance test, *FITNESSGRAM*[®], designated by the SBE. This includes pupils who
27 attend schools that are on a block schedule and whose pupils may not be enrolled in
28 physical education classes during the annual assessment window.

29 ~~Each physically handicapped pupil and each pupil who is physically unable to take~~
30 ~~all of the physical performance test shall be given as much of the test as his condition~~
31 ~~will permit.~~

32 (b) All pupils in grades 5, 7 and 9 shall only take the test once during the annual
33 assessment window.

1 (c) School districts shall test all pupils in alternative education programs conducted
2 off the regular school campus, including, but not limited to continuation schools,
3 independent study, community day schools, and county community schools.

4 (d) No test shall be administered in a home or hospital except by a test examiner.
5 No test shall be administered to a pupil by the parent or guardian of that pupil.

6 (e) Pupils shall be tested in each fitness component included in the physical fitness
7 test unless exempt by the pupil's IEP or Section 504 plan.

8 NOTE: Authority cited: Sections 33031 and 60603, Education Code. Reference:
9 Sections 60602(c), 60603 and 60608 60615 and 60800, Education Code.

10
11 **§ 1042. Recommended Program.**

12 ~~When adequate facilities are available, tests pursuant to this article may be given~~
13 ~~more often than once yearly.~~

14 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60605,
15 Education Code.

16
17 **§ 1043. Methods of Administration.**

18 (a) The tests shall be scored by employees of the district or the employees of the
19 county superintendent of schools. The scoring thereof shall be in compliance with the
20 instructions of the publisher or developer for scoring, and the scores shall be submitted
21 to the governing board of the school district on the dates required by, and on forms
22 prescribed or approved by, such governing board.

23 (b) Districts may provide an alternative date for make-ups based on absence or
24 temporary physical restriction or limitations (e.g., recovering from illness or injury).

25 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800,
26 Education Code.

27
28 **§ 1043.2. Test Administration Training.**

29 (a) For valid results, districts shall use the test administration manual provided for
30 the test designated by the SBE.

31 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800,
32 Education Code.

1 **§ 1043.4. District Physical Fitness Test Coordinator.**

2 (a) On or before November 1 of each school year, the superintendent of each
3 school district, county office of education, and independent charter school may
4 designate from among its employees a District Physical Fitness Test Coordinator. If a
5 District Physical Fitness Test Coordinator is designated, the superintendent shall notify
6 the contractor for the PFT of the identity and contact information of the District Physical
7 Fitness Test Coordinator. The District Physical Fitness Test Coordinator shall be
8 available throughout the year and shall serve as the liaison between the school district
9 and the CDE for all matters related to the PFT.

10 (b) The District Physical Fitness Test Coordinator responsibilities include, but are
11 not limited to, the following:

12 (1) Responding to correspondence and inquiries from the contractor in a timely
13 manner and as provided in the contractor’s instructions.

14 (2) Determining school district and individual school test and test material needs.

15 (3) Overseeing the administration of the PFT to pupils.

16 (4) Overseeing the collection and return of all test data to the contractor.

17 (5) Ensuring that all test data are received from school test sites within the school
18 district in sufficient time to satisfy the reporting requirements.

19 (6) Ensuring that all test data are sent to the test contractor by June 30 of each
20 year.

21 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800,
22 Education Code.

23
24 **§ 1043.6. Data for Analysis of Pupil Proficiency**

25 (a) Each school district shall provide the contractor of the PFT the California School
26 Information Services (CSIS) student identification number for each pupil tested for
27 purposes of the analyses and reporting.

28 (b) The demographic information required by subdivision (a) is for the purpose of
29 aggregate analyses and reporting only.

30 (c) School districts shall provide the same information for each pupil enrolled in an
31 alternative or off-campus program, or for pupils placed in nonpublic schools, as
32 provided for all other pupils.

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49061,
2 60605 and 60800, Education Code; 20 USC section 1232g.

3
4 **§ 1043.8. Reporting Test Scores.**

5 No aggregate or group scores or reports that are compiled pursuant to Education
6 Code section 60800 shall be reported electronically, in hard copy, or in other media, to
7 any audience other than the school or school district where the pupils were tested, if
8 the aggregate or group scores or reports are composed of ten (10) or fewer individual
9 pupil scores. In each instance in which no score is reported for this reason, the notation
10 shall appear: "The number of pupils in this category is too small for statistical accuracy
11 or privacy protection." In no case shall any group score be reported that would
12 deliberately or inadvertently make public the score or performance of any individual
13 pupil.

14 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:
15 Sections 49061, 60605 and 60800, Education Code; 20 USC section 1232g; 34 CFR
16 part 99.

17
18 **§ 1043.10. Reports of Results**

19 Results shall be provided to each pupil after completing the test. The results may be
20 provided orally or in writing.

21 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800,
22 Education Code.

23
24 **§ 1044. Recording Test Scores.**

25 The district superintendent or the county superintendent of schools, as the case
26 may be, shall require that the pupil's scores on each of the tests given him or her in the
27 physical performance testing program be included in the pupil's cumulative record. This
28 requirement may be met by maintaining the regular physical performance testing
29 program card with the cumulative record form.

30 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800,
31 Education Code.

1 **§ 1045. Responsibility of County Superintendent of Schools.**

2 ~~As soon as possible after the State Board of Education, pursuant to subdivision (d)~~
3 ~~of Education Code Section 60603, has designated the physical performance test to be~~
4 ~~used during the ensuing school year in any grade, the county superintendent of schools~~
5 ~~shall secure, and until the close of the school year for which the test was designated,~~
6 ~~shall keep on file for reference purposes, a specimen set of that test.~~

7 ~~The county superintendent of schools shall provide assistance to school districts in~~
8 ~~administering, recording, and reporting results of, the test.~~

9 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60610,
10 Education Code.

11
12 **§ 1046. Use of Reports.**

13 ~~The governing board of each school district shall use the reports of test scores~~
14 ~~submitted as required in this article for identifying physically underdeveloped pupils~~
15 ~~adapting instruction to individual needs, appraising pupil progress, adapting the~~
16 ~~physical education program to meet pupil needs and for such other purposes as may~~
17 ~~be permitted or required by law.~~

18 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800,
19 Education Code.

20
21 **Article 2.5. Testing Variations/Accommodations**

22 **§ 1047. Testing Variations Available to Eligible Pupils.**

23 (a) Each pupil with an IEP or Section 504 plan shall be given as much of the test as
24 his or her condition will permit.

25 (b) School districts may provide test variations or as applicable in the
26 accommodations and modifications as defined in the *Matrix*.

27 NOTE: Authority cited: Section 30331, Education Code. Reference: 20 USC section
28 1400, et seq.; 29 USC section 794; and 42 USC section 12132 and 12133.

29
30 **§ 1048. Testing Variations Available to English Learners.**

31 School districts may provide English learner pupils additional testing variations as
32 defined in the *Matrix*.

1 NOTE: Authority cited: Section 33031, Education Code. Reference: Section 60800,
2 Education Code.

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