

Agenda Special Session Meeting--November 29, 2004

California State Board of Education (SBE) meeting agenda.

State Board Members

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Hon. Jack O'Connell

Acting Executive Director
Karen Steentofte

PUBLIC SESSION AGENDA Monday, November 29, 2004 3:30 p.m.

California Department of Education
State Board of Education Conference Room
1430 N Street, Suite 5111
Sacramento, California
916-319-0827

Public Session 3:30 p.m.

[ITEM 1](#)

(DOC; 64KB;
2pp.)

No Child Left Behind Act (NCLB) of 2001 : Supplemental Educational Services, Proposed Title 5 Regulations-Approve Proposed Amendments and Circulate for a Second 15-Day Public Comment Period.

- [Attachment 1](#) (DOC; 48KB; 6pp.)
- [Attachment 2](#) (DOC; 40KB; 5pp.)

INFORMATION
ACTION

[ITEM 2](#)

(DOC; 56KB; 1p.)

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.

INFORMATION

Closed Session

(The public may not attend.)

The Closed Session (1) may begin at or after 3:30 p.m., be recessed, and then reconvened later in the day; or (2) may commence later than 3:30 p.m.

CLOSED SESSION AGENDA

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

Pursuant to *Government Code* section 11123(b) the meeting will be held by teleconference at the following teleconference locations that are accessible to the public:

970 University Avenue
Los Gatos, CA 95032

2 Folsom Street, 15th Floor
North Conference Room
San Francisco, CA 94105

150 South Rodeo Drive
Third Floor Conference Room
Beverly Hills, CA 90210

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

Persons wishing to address the State Board of Education on a subject to be considered at this meeting, including any matter that may be designated for public hearing, are asked to notify the State Board of Education Office (see telephone/fax numbers below) by noon of the third working day before the scheduled meeting/hearing, stating the subject they wish to address, the organization they represent (if any), and the nature of their testimony. Time is set aside for individuals so desiring to speak on any topic NOT otherwise on the agenda (please see Item 2, Public Comment) . 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, Suite 5111, Sacramento, CA, 95814; telephone, (916) 319-0827; fax, (916) 319-0175.

For more information concerning this agenda, please contact Karen Steentofte, Acting Executive Director of the California State Board of Education, or Deborah Franklin, Education Policy Consultant, at 1430 N Street, Suite 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/) [http://www.cde.ca.gov/be/].

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

Last Reviewed: Wednesday, August 03, 2011

California Department of Education
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CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2004 SPECIAL SESSION AGENDA

SUBJECT	
<i>No Child Left Behind Act (NCLB) of 2001: Supplemental Education Services, Proposed Title 5 Regulations – Approved Proposed Amendments and Circulate for a Second 15-Day Public Comment Period</i>	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing

RECOMMENDATION

The California Department of Education (CDE) recommends that the State Board of Education (SBE) take the following actions:

- Approve the revised proposed amendments to the regulations, with minor technical modifications subject to the approval of the Executive Director of the State Board;
- Direct that the revised proposed amendments be circulated for a 15-day public comment period in accordance with the Administrative Procedure Act;
- If no objections to the revisions are received during the 15-day public comment period, CDE shall complete the rulemaking package and submit the amended regulations to the Office of Administrative Law for Approval;
- If objections to the revisions are received during the 15-day public comment period, CDE shall place the amended regulations on the State Board's January 2005 agenda for action following consideration of the comments received.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

At the September 8, 2004 meeting, the SBE voted to send the draft Supplemental Educational Services Regulations out for a 45-day comment period.

A public hearing on the proposed Supplemental Educational Services Regulations was held on November 8, 2004. The public comment period closed at 5:00 p.m. that day. The comments and recommendations received during the public comment period along with the staff's responses to each of the comments are enclosed. Also included is a copy of the draft version of the regulations that highlights the changes proposed by the field and by the CDE staff.

SUMMARY OF KEY ISSUES

The regulations were amended to expand the specificity of the reporting obligations set forth in Section 13075.3. In addition, Section 13075.4 was amended to itemize additional grounds upon which a Supplemental Service Provider can be terminated. Any other edits were minor, technical, or clarifying and do not change the application of the regulations.

FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal analysis will be submitted as a Last Minute Memorandum.

ATTACHMENT(S)

Attachment 1: Supplemental Services Regulations (6 pages)

Attachment 2: Final Statement of Reasons (5 pages)

Fiscal analysis of the regulations will be provided as Last Minute Memorandum.

Title 5. EDUCATION

Division 1. California Department of Education

Chapter 12. Compensatory Education

Subchapter 13. Supplemental Services

§13075. Definition of a "Demonstrated Record of Effectiveness" for Providers of Supplemental Services Who Are Approved by the SBE Application of this subchapter.

This subchapter shall apply to supplemental services providers and those seeking to provide supplemental services as specified in Section 1116(e) of the No Child Left Behind (NCLB) Act of 2001.

~~(a) For purposes of demonstrating a record of effectiveness for placement on the list of approved supplemental services providers, STAR data are required. Until such time as STAR data are available, a provider shall be deemed provisional.~~

~~(b) An application, completed per the Supplemental Educational Services Provider Request for Application (Rev. 5/2003), which is incorporated by reference, is required of each new provider in each of the first two years of service.~~

~~(c) A provisionally approved provider of supplemental educational services has met the definition of a demonstrated record of effectiveness when:~~

~~(1) the provider demonstrates the ability to provide effective services by meeting all the federal requirements including the following criteria:~~

~~(A) Ensure that programs offered are of high quality, research-based, and specifically designed to increase the academic achievement of eligible children on the assessment instruments required under ESEA Section 1111 (20 U.S.C. section 6316(e)(1)) and attain proficiency in meeting the State's academic achievement standards.~~

~~(B) Ensure that supplemental educational services are coordinated with the student's school program.~~

~~(C) Ensure that the instruction and content provided are aligned with state-adopted curriculum content standards and instructional materials and aligned with state and local assessments.~~

~~(D) Ensure that all instruction and content are secular, neutral, and non-ideological.~~

~~(E) Provide evidence of recent (within the past 2 years) successful experience in improving student achievement. (If the student population served by the provider is composed in part of English learners, the provider must demonstrate experience in improving the student achievement of English learners.)~~

1 ~~(F) Meet all applicable federal, state, and local health, safety, and civil rights laws.~~

2 ~~(G) Have knowledge of the state-adopted content standards, frameworks, and instructional~~
3 ~~materials.~~

4 ~~(H) Be capable of providing appropriate services to eligible students based on individual~~
5 ~~needs consistent with the instructional program of the LEA and the state-adopted standards,~~
6 ~~frameworks, and instructional materials.~~

7 ~~(I) Be financially sound.~~

8 ~~(J) Guarantee that all staff working with students and their parents undergo and pass~~
9 ~~background checks as required by the local contracting school district.~~

10 ~~(K) Abide by the conditions of the contract with the LEA.~~

11 ~~(2) And, by the end of the second year of provisional approval, ninety-five percent of eligible~~
12 ~~students receiving services have made increases in academic proficiency at a level articulated~~
13 ~~in the supplemental educational services contract and as measured by the STAR.~~

14 NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 USC United
15 States Code sSection 6316(e)(4) and Section 12000, Education Code.

16
17 **§ 13075.1. Definitions.**

18 For purposes of this subchapter, the following definitions apply:

19 (a) "Eligible applicant" means any public or private (nonprofit or for-profit) entity that meets
20 the State's criteria for approval, and includes public schools (including charter schools), private
21 schools, school districts, or county offices of education that are not currently identified for
22 program improvement or for corrective action pursuant to Section 1116(b)(1) of NCLB,
23 institutions of higher education, faith-based and community-based organizations and private
24 businesses;

25 (b) "Approved supplemental educational services provider" ("provider") means an eligible
26 applicant that has been approved by the State Board of Education (SBE) pursuant to the
27 provisions of this subchapter;

28 (c) "Eligible student" means a child from a low-income family as determined by the local
29 educational agency for purposes of allocating funds under Section 1113(c)(1) of NCLB who is
30 attending a Title I funded school that is in year two or beyond of program improvement;

31 (d) "Demonstrated record of effectiveness in increasing the academic proficiency of
32 students" means an eligible applicant has documentation of the following:

33 (1) Improved student academic performance in individual student scores on national, state,
34 district or other assessments in English language arts or mathematics. These assessments

1 must be developed in accordance with the standards for validity and reliability as set forth in
2 *Standards for Educational and Psychological Testing*.

3 (2) Improved student academic performance as measured by written teacher assessments
4 of student growth in English language arts or mathematics.

5 NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 USC
6 Section 6316(e).

7
8 **§13075.2. Application, Quality Requirements and Approval.**

9 (a) Eligible applicants must submit a completed application to CDE before March 1 of the
10 school year preceding the fiscal year in which they wish to become a provider;

11 (b) Applications will be reviewed by CDE and submitted to SBE for approval. The effective
12 date of any ensuing approval will be July 1 of that same calendar year;

13 (c) An eligible applicant shall be considered for approval upon receipt of a completed
14 application that satisfies each of the following qualifications:

15 (1) Documents a demonstrated record of effectiveness as defined in Section 13075.1;

16 (2) Contains at least five letters of reference from previous clients (e.g., families, schools,
17 districts, teachers, etc.) offering testimonial information about the positive impact of the
18 applicant's program.

19 (3) Certifies that the applicant has not been removed, pursuant to Section 13075.4 of this
20 subchapter, for cause from the list of approved supplemental educational services providers at
21 any time within the two years preceding the fiscal year (July 1-June 30) for which it is submitting
22 an application;

23 (4) Provides written proof of current liability insurance coverage and assures they will
24 provide the local educational agencies with which they contract written proof of current liability
25 insurance coverage and other necessary insurance of the type and in the amount required by
26 the local educational agency;

27 (5) Demonstrates that it is legally constituted and qualified to do business in California;

28 (6) Describes the staffing, fiscal, equipment, and facility resources of the organization that
29 enable it to work with students in compliance with these regulations and applicable federal, state
30 and local statutes and regulations;

31 (7) Demonstrates it is fiscally sound as shown by the following:

32 (A) Proof of financial resources to operate as a provider for a minimum of 6 months after
33 initial approval, including a description of how the organization receives funding (e.g., grants,
34 fees-for-services, etc.) separate from reimbursement for provider services;

1 (B) Proof of financial viability (e.g., through audits, financial statements, or credit rating);

2 (C) Organizational budgets that identify all sources of revenues available to the applicant
3 and cash flow activity related to the expenditures of that revenue;

4 (8) Provides certification that the facility meets all applicable federal, state and local health
5 and safety laws, if instruction will occur at a facility other than the student's school or residence;

6 (9) Demonstrates instruction meets the following criteria:

7 (A) Instruction will be aligned with applicable state adopted academic content standards, **K-**
8 **12 curriculum frameworks** and instructional materials;

9 (B) Instruction will be organized and presented in a manner designed to meet the specific
10 achievement goals of individual students;

11 (C) Instruction will be coordinated with the student's school program, including an Individual
12 Education Plan (IEP) and/or a 504 Plan, if applicable;

13 (D) Instruction will be of high quality and will increase student academic achievement in
14 English language arts or mathematics;

15 (E) Instruction shall be provided outside of the regular school day;

16 (F) Instruction will be provided that is secular, neutral, and non-ideological;

17 (10) Describes the procedure for developing specific achievement goals in consultation with
18 parents/guardians and school staff.

19 (11) Describes the manner in which students with disabilities and English learners will have
20 access to services;

21 (12) Defines procedures for providing students, parents/guardians, teachers, schools and/or
22 districts with regular reports of student progress;

23 (13) Describes how the applicant shall secure parental/guardian permission to have access
24 to student data (e.g., STAR data, IEP data and/or 504 data) maintained by the local educational
25 agency (LEA) for each student served for purposes of demonstrating academic improvement;

26 (14) Provides assurances that all student information shall be kept confidential except as
27 necessary to inform parents/guardians and appropriate school staff;

28 (15) Describes the process of collaborating with contracting school districts in the use of
29 individual student STAR test results in determining the increase in student academic
30 performance;

31 (16) Describes procedures to maintain, monitor, and notify LEAs about personnel updates
32 related to provider's staff changes;

33 (17) Describes procedures for completion of, and compliance with, staff background checks,
34 fingerprinting, and TB tests for those employees providing services to students;

1 (18) Provides assurance that the provider will comply with all applicable federal, state, and
2 local health, safety, and civil rights laws;

3 **(19) Agrees to limit incentives to those directly related to services provided, and not**
4 **to exceed a monetary value as designated in the contract with the LEA.**

5 ~~(19)~~ **(20)** Agrees to abide by the conditions set forth in the contract with the LEA, including
6 the payment schedule, rates, and any facility user fee arranged with the LEA that will be in
7 compliance with Section 1116 (e)(6) of the NCLB;

8 ~~(20)~~ **(21)** Agrees to participate in the monitoring and evaluation process developed and
9 directed by CDE.

10 (d) The term of approval is for a maximum of two fiscal years (July 1- June 30).

11 NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 USC
12 Section 6316(e).

13
14 **§13075.3. Submission of An Annual End-of-Fiscal-Year Report by Approved Providers.**

15 (a) Approved providers must submit ~~maintain records for each year that services are~~
16 ~~provided to support~~ an annual end-of-fiscal-year report to CDE ~~to be submitted~~ by October 1
17 disclosing the following:

18 (1) Names and numbers of schools served.

19 (2) Total number of students served by grade levels.

20 (3) Location(s) where services were provided.

21 ~~(3)~~ (4) Data for individual students served, with student identifying information redacted,
22 served as follows:

23 (A) Beginning and ending dates of service;

24 (B) Instructional delivery methods;

25 (C) Subject area (i.e. English language arts and mathematics);

26 (D) Beginning and ending ~~performance levels~~ scores on national, state, district or other
27 assessments in English language arts or mathematics. The assessments used for this purpose
28 must be developed in accordance with the standards for validity and reliability as set forth in
29 *Standards for Educational and Psychological Testing.*

30 ~~(4)~~ (5) Fiscal and expenditure information; and

31 (6) Written documentation of any changes that have occurred during the year of reporting as
32 outlined in numbers 4, 5, 6, 7 or 8 of Section 13075.2.

33 (7) The number of students served online, with one-on-one tutoring, or in a small group
34 setting; and

1 (8) Computer equipment and technology provided to the student served:

2 (b) These records to support the annual end-of-fiscal-year report must be retained for three
3 years after submission of the ~~annual end-of-fiscal-year~~ report.

4 NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 USC
5 Section 6316(e).

6 **§13075.4. Termination As An Approved Provider.**

7 (a) A provider identified for program improvement or corrective action under Section
8 1116(b)(1) and 1116(c)(3) of NCLB during its term of approval is automatically terminated as an
9 approved provider by operation of law.

10 (b) A provider may be terminated by the SBE for any of the following reasons:

11 (1) The provider has failed to provide information requested by CDE to allow CDE to monitor
12 and evaluate the program;

13 (2) The provider has failed to monitor and evaluate the progress of students receiving
14 services;

15 (3) The provider has failed to contribute to increasing the academic proficiency in English
16 language arts or mathematics for two consecutive years for a majority of students served, as
17 demonstrated by student scores on national, state, district or other assessments in English
18 language arts or mathematics for grades 2-11 and by teacher recommendations for grades K-1
19 and grade 12. These assessments must be developed in accordance with the standards for
20 validity and reliability as set forth in *Standards for Educational and Psychological Testing*.

21 (4) The provider has failed to meet applicable federal, state and local health, safety, or civil
22 rights laws;

23 **(5) The provider has failed to meet the requirements of 4, 5, 6, 7 or 8 under Section**
24 **13075.2;**

25 **(6) The provider has failed to meet the reporting requirements under Section 13075.3;**

26 **or**

27 ~~(5)~~**(7) The provider requests voluntary removal from the approved list.**

28 NOTE: Authority cited: Sections 12001 and 33031, Education Code. Reference: 20 USC
29 Section 6316(e).

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FINAL STATEMENT OF REASONS Supplemental Educational Services

UPDATE OF INITIAL STATEMENT OF REASONS

As a result of the review process, the regulations were amended to expand the specificity of the reporting obligations set forth in Section 13075.3. In addition, Section 13075.4 was amended to itemize additional grounds upon which a Supplemental Service Provider can be terminated. Any other changes were minor, technical or clarifying and do not change the application of the regulations.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF SEPTEMBER 24, 2004, THROUGH NOVEMBER 8, 2004

The text of the draft regulations about Supplemental Educational Services (SES) was made available to the public from September 24, 2004, through November 8, 2004. Three written comments were received in response to the draft regulations. One individual provided oral testimony at the public hearing held on November 8, 2004.

Individuals from two school districts provided written comments about SES. Their comments follow:

Comment: Marcia Turner from Ocean View School District commented that additional information about each provider should be added to the Web site (i.e., hours of service per pupil, whether students needed a computer, etc.).

Response: This individual's comments suggest that CDE provide additional information about each approved provider on the Web site listing approved providers. These comments do not relate to any specific section of the draft regulations. Nothing in NCLB requires that the suggested information be collected.

Comment: Rick Carder from the Grant Union High School District made several comments related to the draft regulations, as follows: 1) approve providers annually and not monthly (May); 2) release per student allocations for SES services no later than June 1; 3) provide training on NCLB in regard to SES; 4) improve Web site to link all SES providers to districts they will provide services to; 5) take action against providers who are violating the intent of NCLB law; 6) allow districts greater flexibility in terminating inappropriate services; and 7) provide direction to school districts regarding incentives and offers to parents that conflict with California Title V regulations

Response: CDE staff has made the following determinations about the preceding recommendations:

1. The draft regulations include an annual approval process of SES providers. Nothing further needs to be added on this topic.
2. The release of per pupil rate for SES providers is beyond the scope of these regulations, and does not require regulatory action.
3. Training about supplemental educational services is beyond the scope of these regulations. In addition, the CDE staff concludes that training is accomplished through technical assistance provided to school districts, providers and parents on an as-needed basis.
4. Providing Web site linkages is beyond the scope of these regulations, and does not require regulatory action.
5. There is no regulatory mechanism for controlling whether a provider violates the “intent” of NCLB. The existing regulations address the actual failure to comply with the provisions relating to Supplemental Services Providers under NCLB, by limiting who is eligible to be an applicant, and how a provider can be terminated.
6. According to NCLB, districts currently have the necessary flexibility to terminate a provider for not providing appropriate services to students if they enter into a contract that has outlined reasons for termination of providers.
7. CDE staff agrees with the comment and has added a provision on page 4, lines 34 and 35 to address the issue.

Comment: The Association of California School District Administrators (ACSA) made recommendations for changes in the following areas of the draft regulations:

Recommendation #1 regarding provider’s instructional program in Section 13075.2 (9) (A):

(A) Instruction will be aligned with applicable state adopted academic content standards, **K-12 curriculum frameworks** and instructional materials, **and aligned with state and local assessments.**

Recommendation #2 regarding the criteria for establishing “demonstrated record of effectiveness” as set forth in Section 13075.1, ASCA recommends that the applicant must meet all of the criteria stated in 13075.1(d). In addition, ASCA recommends that the following two criteria be added:

- (3) **Knowledge of state adopted K-12 curriculum frameworks in the subjects to be taught by all providers of services; and**
- (4) **Demonstrated knowledge of working with special education populations and English learner populations.**

Recommendation #3 regarding annual reports from approved providers in Section 13075.3: ACSA recommend adding the following language to 13075.3(a):

- (5) **Location of where students were served**
- (6) **Number of students served on-line, in person, one on one tutoring and in group settings**

(7) Computer equipment and technology provided for students served on line.

Recommendation #4 regarding the termination of providers in Section 13075.4: Add to Section 13075.4 **(6) The provider failed to provide the services as outlined in the agreement set forth between the provider and the local education agency.**

Response: The CDE staff has made the following determinations about these recommendations:

Recommendation #1: Per ACSA's recommendation, the CDE staff proposes to add "K-12 curriculum frameworks" to Section 13075.2 (9) (A) on lines 4 and 5 on page 4. The staff does not recommend adding "...and aligned with state and local assessments" because this requirement would be redundant. Since the instruction must be aligned to the content standards and curriculum frameworks, it will, by design, be aligned with assessments. In addition, providers who are not public school entities would not have access to such assessments.

Recommendation #2: Section 13075.1(d) already requires the applicant to meet both criteria for "demonstrating record of effectiveness."

With regard to expanding the criteria for a provider's "demonstrated record of effectiveness," the CDE staff recommends not adding the third criterion. This issue is already addressed in subsection (9) (A) under Section 13075.2. Providers would be able to align instruction to standards, framework, and materials without such knowledge. The CDE staff does not recommend adding the fourth criterion because existing NCLB regulations are clear that providers are not mandated to work with students in either Special Education or English learner populations. The draft regulations do ask applicants to describe the services to these groups, if applicable.

Recommendation #3: The CDE staff proposes adding and modifying slightly these three items to the regulations under Section 13075.3.

Recommendation #4: According to NCLB, districts currently have the necessary flexibility to terminate a provider for not providing appropriate services to students if they enter into a contract that has outlined reasons for termination of providers. CDE will work with LEAs to ensure that providers whose contracts with LEAs are terminated for any of the reasons listed in Section 13075.4 can also be removed from the approved list.

Comment: During the public hearing conducted on November 8, 2004 Kim Shipp, representing the District Advisory Committee in the Oakland Unified School District, commented on the following areas of the proposed regulations. (She did not provide written comments.)

Regarding termination of providers, Ms. Shipp raised the concern that the regulations should require that the provider demonstrate that students show annual growth, instead of growth over a two-year period.

Ms. Shipp also raised a concern that providers should not be penalized if a district is delayed in entering into contracts with supplemental service providers.

Responses: The regulations that state that the provider must show growth over a two-year period are based on a specific criteria set in federal law and regulations. (34 CFR §200.47(a)(4)(ii).)

The regulations do not address the timing of or manner in which the local educational agencies enter into contracts with providers, and is beyond the scope of these regulations, and does not require regulatory action. This is an issue for the local governing boards.

Recommended Changes to the Draft Regulations by CDE Staff

The staff from CDE makes the following recommendation to the regulations:

Comments: The CDE staff proposes to make the following changes:

- In Section 13075.1, add, “**(d) in increasing the academic proficiency of students**” in order to clarify that a “**demonstrated record of effectiveness**” refers to increasing academic achievement of students.
- In Section 13075.3(a)(4)(D) has been amended to clarify that scores on valid and reliable assessments must be reported.
- In Section 13075.3, add “**(6) Written documentation of any changes that have occurred during the year as outlined in numbers 4, 5, 6, 7 or 8 of Section 13075.2.**” Requiring this information in the end-of-the-year report will alert CDE to any changes in the fiscal, staff and facility aspects that may have an adverse effect on the approval status of the provider.
- In Section 13075.4, add, “**(5) The provider has failed to meet the requirements of 4, 5, 6, 7 or 8 under Section 13075.2.**” Also, add, “**(6) The provider has failed to meet the reporting requirements under Section 13075.3.**” These additions make provider failure to meet essential quality requirements and obligations specified reasons for termination as an approved provider.

ALTERNATIVES DETERMINATION

The State Board has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed 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 state mandate on local agencies or school districts. The regulations implement a federal NCLB requirement. Funding for this requirement comes from each LEA's federal Title I allocation. Becoming an SES provider is voluntary for LEAs that choose to become a provider.

REGULATIONS TO BECOME EFFECTIVE UPON FILING

The annual application process referred to in the draft regulations ends on March 1. This date has been carefully selected to allow SES provider applicants time to submit applications and for CDE staff to review the applications for recommendation to the State Board of Education (SBE) at its May meeting prior to the beginning of the new fiscal year. (The SBE does not meet in June.) Federal law requires an on-going list of SES providers, which under the current system expires each June 30. In addition, CDE has to inform the field as soon as possible of the radical change in the application process from a continuous year-round process to a one-time-a-year application by March 1.

In order to have the new application process be in effect for the 2005-06 fiscal year, the regulations must become effective upon filing. This immediate effective date would allow current or prospective providers sufficient time to prepare their applications to meet the new March 1 (only) deadline. Further, districts would know which SES providers are approved for the 2005-06 school year. Providers would have sufficient time to contract with districts to provide services to students in a timely manner.



CALIFORNIA STATE BOARD OF EDUCATION

NOVEMBER 2004 SPECIAL SESSION AGENDA

SUBJECT PUBLIC COMMENT. Public Comment is invited on any matter <u>not</u> 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.	<input type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing
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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