



California State Board of Education

Meeting Agenda Items for May 8-9, 2013

ITEM 3 ATTACHMENT 3

ITEM 17 UPDATED

ITEM 23 ATTACHMENT 1

REVISED



California State Board of Education

Meeting Agenda Items for May 8-9, 2013

ITEM 3 ATTACHMENT 3



Assessment Transition

Presentation to the
State Board of Education

May 8, 2013

Deborah V.H. Sigman
Deputy Superintendent
District, School & Innovation Branch
California Department of Education

California has a clear and inspiring vision for public education, focused on great instruction and grounded in the Common Core State Standards

California's vision for career and college readiness

- **High quality teaching and learning in every classroom, where assessments guide planning and progress in the classroom for great instruction**
- **Built on the Common Core State Standards, which bring California's standards up to date and from good to great**
- **And reinforced by practical supports for teachers that give them the information and the tools to meet students where they are and help them to learn more**
- **So that we can help more students who are already proficient reach the next level and help students who are not close the gap**
- **...with the goal of ensuring that all students, regardless of where they are from or where they live, graduate prepared for college and careers in the global economy of the 21st century**

The new vision is generating a lot of excitement...

81% of California teachers surveyed are excited about CCSS and Smarter Balanced¹

"I'm very excited about the new assessments, especially because they are so reflective of how I teach. For the first time in a state assessment, my students will be asked to interact with information, moving things around, highlighting things, manipulating data, just as they do when I'm teaching them ...

In the past, I found there was a disconnect between what they learned in class and what they were asked to do or know on the test. I would often have to stop high quality teaching and try to explain how they would be asked about this on the test. Really, **only about 50% of the test looked like the kinds of work students did in my classroom."**

–Rebecca Mieliwocki, 2012 California and National Teacher of the Year

"It is crucial that our students demonstrate their mastery of core academic content by thinking critically to solve complex problems and working collaboratively. Our future workforce must be able and motivated to...continue to develop and produce results for their future employers."

–CA's 20 business and economic development entities, joint letter

"[We] believe that the adoption of a new accountability system that assesses whether ...education [institutions] are creating an engaging learning environment and preparing students with 21st Century and Deeper Learning skills ...is critical to producing a globally competitive workforce."

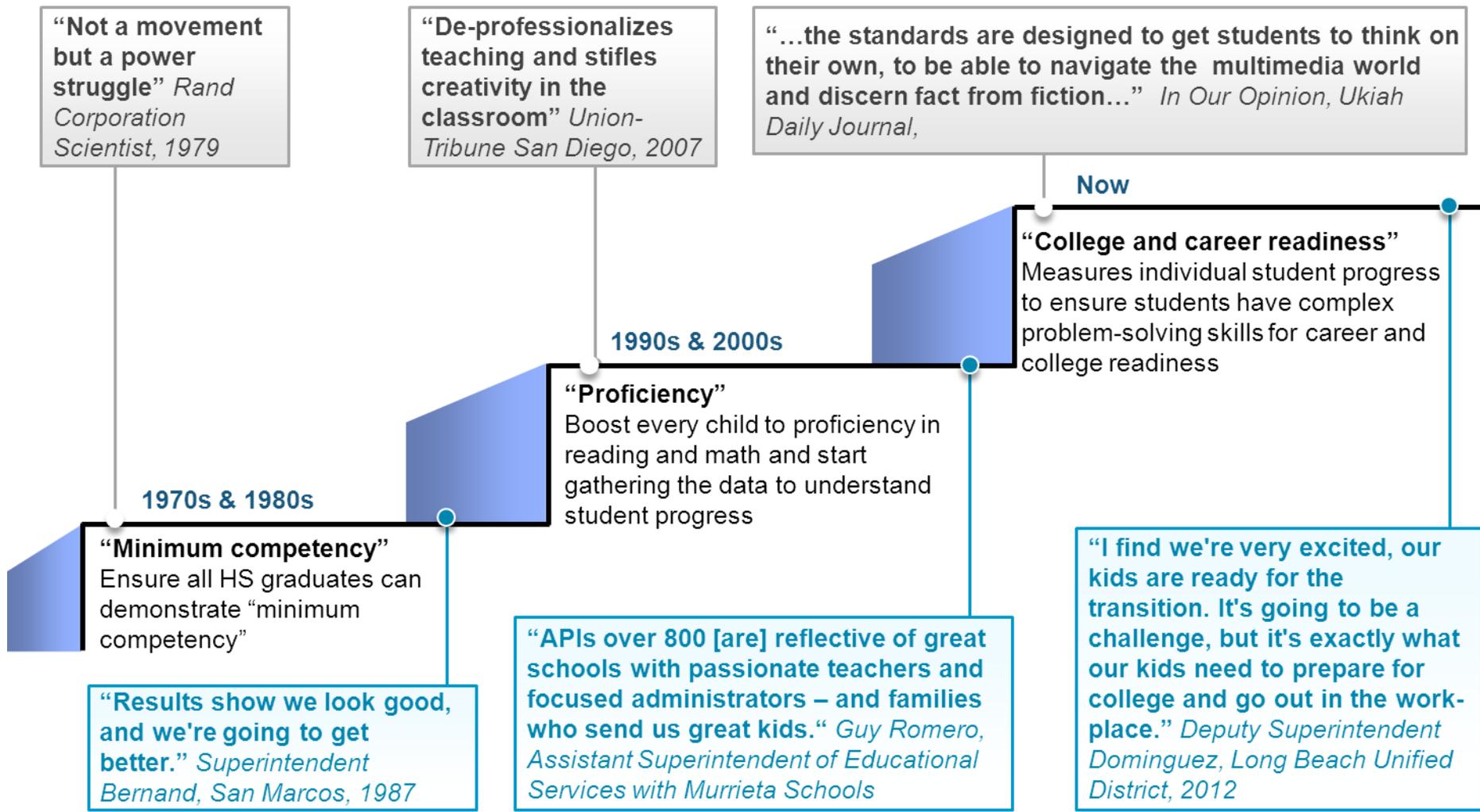
– National Metropolitan Business Alliance

More than 11,000 employers who collectively provide more than 3 million California jobs support Smarter Balanced²

¹ CCSS survey, November 2012

² Regional Economic Association Leaders of California (R.E.A.L.) public letter of Support for Performance and Deeper Learning, July 2012

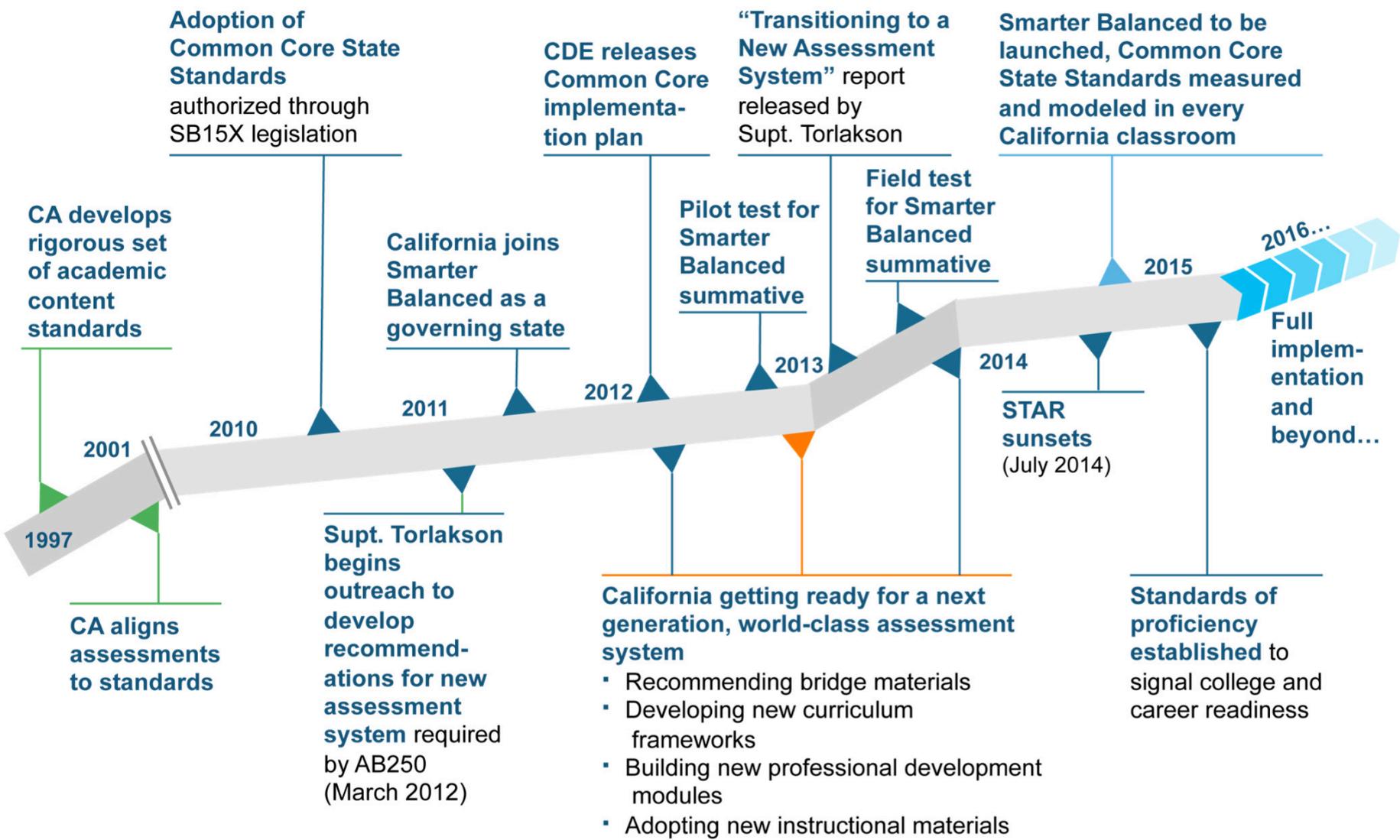
Education has never been stagnant; the Common Core and Smarter Balanced are part of the normal, important progression



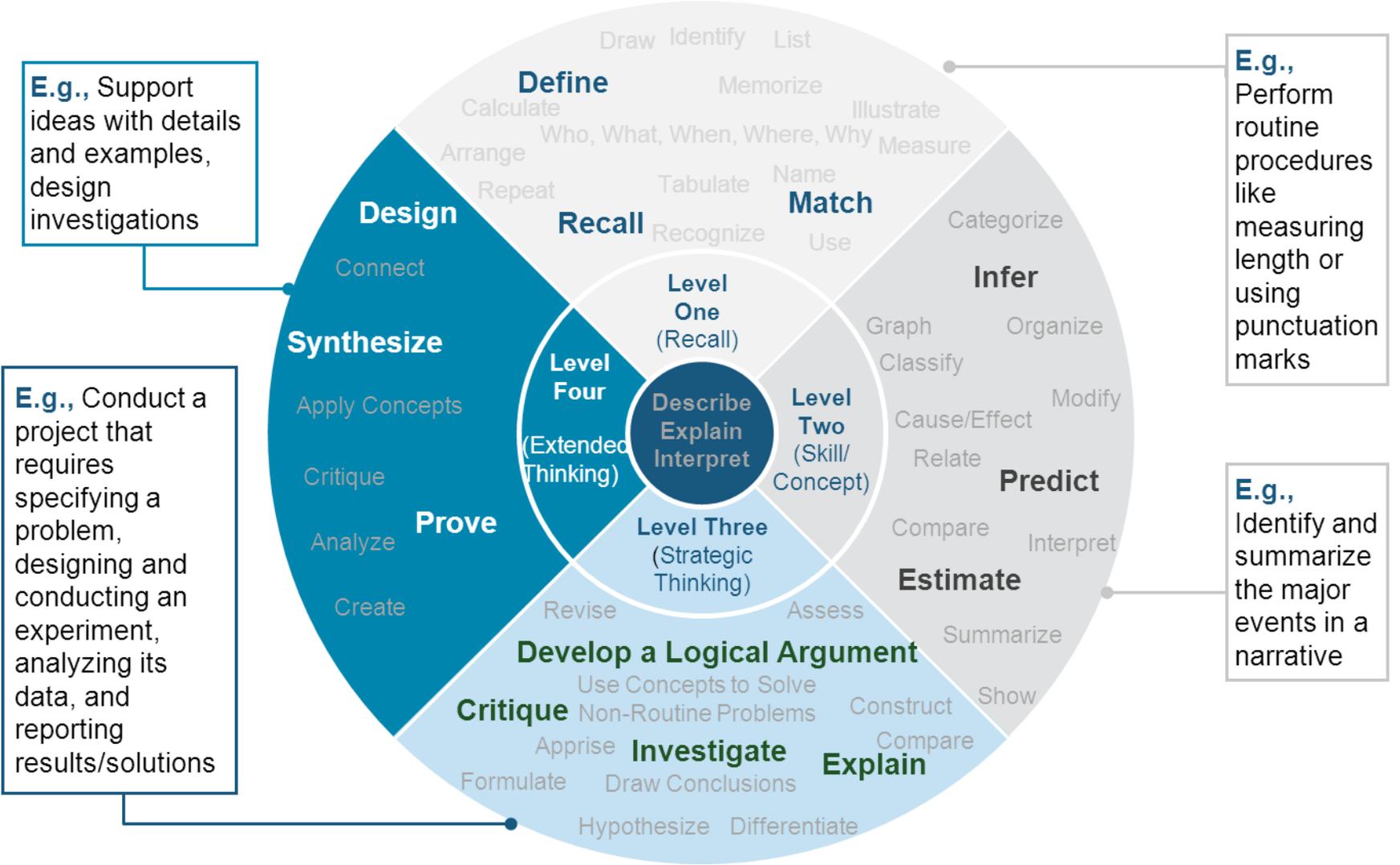
At each inflection point people have been nervous, but each time it has been the right thing to move forward

Source: (1) ASCD Journal, 1979, http://www.ascd.org/ASCD/pdf/journals/ed_lead/el_197905_newman.pdf; (2) Griffin, Vern. “Tests show San Marcos on upgrade | Results please school district.” *San Diego Union-Tribune*. 22 September 1987; (3) The Californian. “NCLB law panned in UCR study.” *San Diego Union-Tribune*. 3 April, 2009. (4) Kabbany, Jennifer. “Temecula, Murrieta districts post top county test scores.” *San Diego Union-Tribune*. 1 September 2006; (5) Staff. “In Our Opinion – New Standards Apply to Everyone”. *Ukiah Daily Journal*. 20 April, 2013. (6) Puente, Kelly. “Long Beach district to phase in Common Core over 3-year period.” *Press Telegram Long Beach*. 4 August, 2012.

We are in the midst of our journey towards Common Core implementation



Common Core State Standards bring more breadth and depth by emphasizing the full range of thinking skills



“Not just another test”...Smarter Balanced is critical to helping California achieve its vision

1 Prepares California’s students for a changing world

Assessments model instruction and prepare students for the new economy

2 Supports teachers with a practical suite of resources

Tools for instruction and information are integrated to promote and inform great teaching

3 Connects learning to life after high school – career or college

Aligned with college curricula and employer expectations

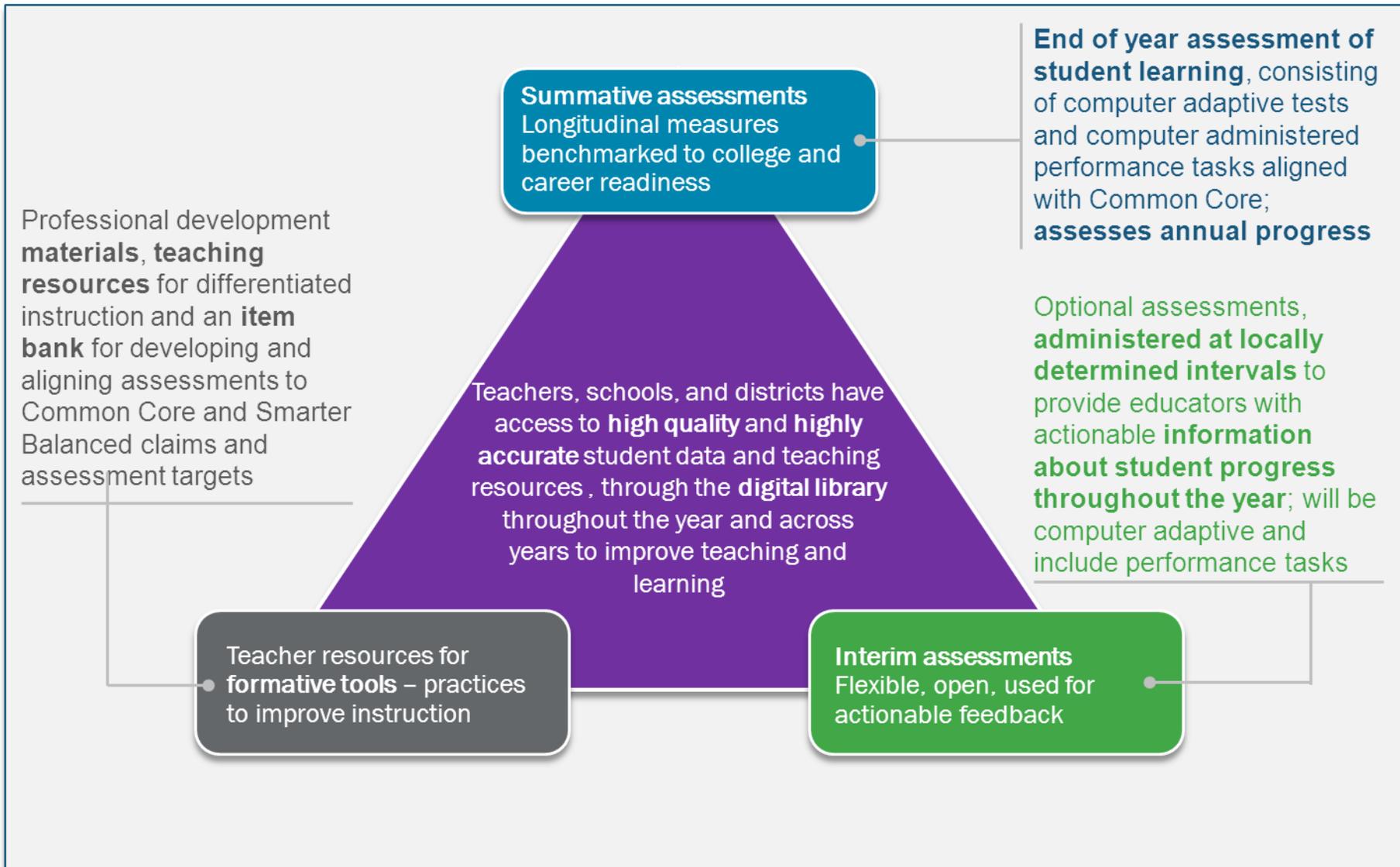
4 Provides meaningful information to guide student growth

Actionable and timely data for teachers, parents, and students

5 Keeps California educators in the driver’s seat

State Educators, researchers, policymakers helped build Smarter Balanced

The main pieces of the Smarter Balanced Assessment System

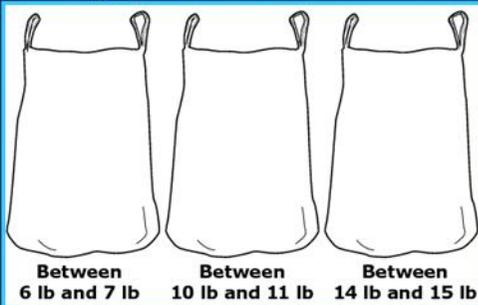


Side by side comparison of summative items

Sample Smarter Balanced item

Jared is testing how much weight a bag can hold. He plans to put juice bottles into three bags. He wants each bag to have a total weight within the given range.

- Drag juice bottles into each bag so that the weight is within the given range.
- Leave the bag empty if the given range is not possible using juice bottles.



Correct answer:



Sample STAR item

The total length of a vehicle is 205.83 inches. What is the length of the vehicle rounded to the nearest whole number?

- A 200 inches
- B 205 inches
- C 206 inches
- D 210 inches

Correct answer:

23. A B C D



California State Board of Education

Meeting Agenda Items for May 8-9, 2013

ITEM 17 UPDATED



CALIFORNIA STATE BOARD OF EDUCATION

MAY 2013 AGENDA

SUBJECT Update of Special Education Regulations—Approve Commencement of the Rulemaking Process for Amendments to the California Code of Regulations, Title 5, Sections 3001–3088.	<input checked="" type="checkbox"/> Action <input checked="" type="checkbox"/> Information <input type="checkbox"/> Public Hearing
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SUMMARY OF THE ISSUE(S)

Many of the regulations that govern the special education program in California have not been updated since the State Board of Education (SBE) adopted substantive amendments in December 1987. Since those regulations became operative on April 20, 1988, there have been numerous changes to state statutes and federal statutes and regulations. The attached amendments to *California Code of Regulations*, Title 5 (5 CCR), sections 3001–3088 are being proposed to update these regulations by bringing them into alignment with existing state statutes and federal requirements.

RECOMMENDATION

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

- Approve the Notice of Proposed Rulemaking (Attachment 1)
- Approve the Text of Proposed Regulations (Attachment 2)
- Approve the Initial Statement of Reasons (Attachment 3)
- Direct the CDE to commence the rulemaking process

BRIEF HISTORY OF KEY ISSUES

The regulations implementing special education and related services to children ages birth to 22 in California have not been substantially updated since 1987. In the past 25 years, state statutes and federal statutes and regulations have continued to change and the federal Individuals with Disabilities Education Act (IDEA) has been reauthorized twice.

In 2010, the Special Education Division (SED) began an internal process for reviewing and updating 5 CCR, sections 3001–3088. The SED internal review process involved division management and staff at all levels in a series of meetings and comment periods that resulted in technical and substantive proposed amendments to the regulations.

In August 2012, pursuant to Title 1, CCR, Section 100, the CDE SED, sought from the Office of Administrative Law (OAL) approval for proposed technical, nonsubstantive amendments to the regulations under review. In September 2012, the OAL approved technical, nonsubstantive amendments to the following 5 CCR sections: 3000, 3010, 3021, 3021.1, 3022, 3023, 3024, 3025, 3027, 3028, 3042, 3051.4, 3051.75, 3051.8, 3051.9, 3051.12, 3051.13, 3051.17, 3051.18, 3052, 3053, 3062, 3063, 3064, 3067, 3069, 3080, 3082, 3083, 3084, 3085, 3086, 3087, 3088, 3088.1, 3088.2, 3089, 3090, 3091, 3092, 3093, 3094, 3096, 3096.1, 3096.2, 3097, 3098, 3098.1, 3098.2, 3099, and 3100. These regulatory sections were updated in the California Code of Regulations, Title 5, and the amendments were posted to the CDE Web site at <http://www.cde.ca.gov/sp/se/ac/>.

On October 15, 2012, the SED solicited—by e-mail through the division’s established mailing lists—assistance and advice from hundreds of education stakeholders regarding which sections of the existing regulations they thought should be maintained, amended, deleted, or added. Stakeholder groups that the SED contacted included members of the Advisory Commission on Special Education (ACSE), Assembly Bill 114 Transition Workgroup, the Association of California School Administrators, the California Association of Resource Specialists PLUS, Community Advisory Committee members, the Family Empowerment and Disability Council, members of the Improving Special Education Services group, representatives of Institutes of Higher Education, Nonpublic School/Agency Administrators, directors of Special Education Local Plan Areas (SELPA), Special Education Administrators of County Offices, members of the California Teachers Association board, and WorkAbility administrators. In addition, SED staff asked SELPA directors to forward the request for assistance and advice to district special education directors.

To facilitate these stakeholders in providing the SED with their comments, an electronic assistance and advice form (Attachment 4) was sent to them along with instructions for using the form. The form had a field that allowed stakeholders to indicate for each regulation whether the regulation should be maintained, amended, deleted, or added. The form also allowed respondents to enter proposed amendments of up to 400 characters, and it provided a field in which respondents could offer a rationale for each comment, also of up to 400 characters. The SED received responses from ten persons, and these responses were compiled into one document, which was provided to ACSE.

Pursuant to California *Education Code* Section 33595, the ACSE is mandated to “Comment publicly on any rules or regulations proposed by the state regarding the education of individuals with exceptional needs.” During the ACSE’s January 2013 meeting, and in preparation for the ACSE’s March 2013 meeting, SED staff provided the commissioners with an information package that contained the draft amendments to the regulations, the draft initial statement of reasons, a compilation of public comments received so far, and information about the rulemaking process.

A second informal public comment period was also conducted from December 28, 2012, through February 15, 2013. The SED staff, in partnership with the ACSE, once again contacted the education stakeholders noted above and asked them to provide the ACSE with comments on the proposed amended regulations. This round of comments was provided to all of the commissioners on February 21, 2013, in anticipation of the ACSE's March 2013 meeting.

On March 6, 2013, the ACSE deliberated on the proposed amendments to 5 CCR sections 3001–3088 and provided the SED with its comments, many of which have been incorporated into the regulatory package. The ACSE approved a motion that the CDE should forward the attached regulations to the SBE for approval to commence the formal rulemaking process. Any further ACSE deliberation will be reflected during the 45-day comment period.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

N/A

FISCAL ANALYSIS (AS APPROPRIATE)

A Fiscal Impact Statement is provided as Attachment 5.

ATTACHMENT(S)

Attachment 1: Notice of Proposed Rulemaking (5 pages)

Attachment 2: Text of Proposed Regulations (45 pages)

Attachment 3: Initial Statement of Reasons (20 pages)

Attachment 4: Assistance and Advice form (3 pages) (This attachment is not available for Web viewing. A printed copy is available for viewing in the State Board of Education office.)

Attachment 5: Economic and Fiscal Impact Statement (STD. 399) (4 pages). The Economic and Fiscal Impact Statement is available for viewing at the State Board of Education office.



CALIFORNIA DEPARTMENT OF EDUCATION

TOM TORLAKSON, State Superintendent of Public Instruction
916-319-0800

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street Sacramento, CA 95814-5901

MICHAEL W. KIRST, President
916-319-0827

**NOTICE OF PROPOSED RULEMAKING
AMENDMENT TO CALIFORNIA CODE OF REGULATIONS, TITLE 5, REGARDING
THE SPECIAL EDUCATION REGULATIONS**

Notice published May 24, 2013

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 9:00 a.m. on July 8, 2013 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 public 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, CA 95814

Comments may also be submitted by facsimile (FAX) at 916-319-0155 or by e-mail to regcomments@cde.ca.gov.

Comments must be received by the Regulations Coordinator prior to 5:00 p.m. on July 8, 2013. 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 proposed regulations.

AUTHORITY AND REFERENCE

Authority: Sections 33031, 56100, 56366.1, Education Code; 20 U.S.C. Section 1414; 34 C.F.R. Section 300.600.

References: Sections 2530, 2570.2, 2620, 2903, 2905, 4980.02, 4989.14 and 4996.9, Business and Professions Code; Sections 33300, 37600, 41976.5, 45340, 45350, 49001, 49423.5, 56001, 56026, 56320, 56324, 56326, 56327, 56333, 56337, 56341, 56345, 56363, 56363.3, 56364, 56365, 56366, 56366.1, 56366.2, 56366.6, 56366.10, 56381, 56425, 56426, 56426.1, 56430, 56500, 56501, 56502, 56503, 56504, 56505, 56506, 56507, and 56520, Education Code; Sections 95014, 11425.10, 11430.10-11430.30, 11430.50, 11430.60, 11440.20, 11455.10, 11455.20 and 11455.30, Government Code; 20 U.S.C Sections 1401, 1414, and 1415; 34 C.F.R Sections 300.25, 300.4-300.45, 300.8, 300.12, 300.18, 300.34, 300.106, 300.156, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309, 300.310, 300.311, 300.320, 300.342-300.345, 300.507, 300.508, 300.509, 300.510, 300.511, 300.512, 300.550-554, and 303.21.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California Code of Regulations, title 5, sections 3001-3088, pertain to the administration of special education instruction and related services for students with individualized education programs (IEPs). These regulations implement California Education Code, Part 30.

Many of the regulatory sections noted above have not been updated since the State Board of Education (SBE) adopted substantive changes on December 11, 1987, which became operative on April 20, 1988. Since then state and federal statutes and

regulations have changed many times in response to legislative activities in California, including two reauthorizations by Congress of the federal Individuals with Disabilities Education Act (IDEA) in the United States Code, and consequent amendments to federal regulations as promulgated in title 34, Code of Federal Regulations, Part 300.

The purpose of introducing this rulemaking process is to update state regulations by bringing them into alignment with existing state statutes and federal statutes and regulations. Updating these regulations will help to ensure the consistent application of existing laws throughout California's educational entities for all students with IEPs; to standardize guidance for monitoring purposes for compliance with state and federal requirements; and to facilitate the appropriateness of administrative and judicial decisions predicated on California law.

The CDE reviewed all state regulations relating to the provision of special education and related services to students with IEPs and found that none exist that are inconsistent or incompatible with these regulations regarding the same matters.

DISCLOSURES REGARDING THE PROPOSED ACTION/ FISCAL IMPACT

The SBE has made the following initial determinations:

There are no other matters as are prescribed by statute applicable to the specific state agency or to any specific regulations or class of regulations.

The proposed regulations do not require a report to be made.

Mandate on local agencies and school districts: TBD

Cost or savings to any state agency: 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 costs or savings imposed on local educational agencies: TBD

Costs 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.

Effect on housing costs: TBD

Effect on small businesses: The proposed regulations would not have an effect on any small business because the proposed amendments only bring these sections into alignment with existing state statutes and federal statutes and regulations.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

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.

Updating these regulations will help to ensure the consistent application of existing laws throughout California's educational entities for all students with IEPs; to standardize guidance for monitoring purposes for compliance with state and federal requirements; and to facilitate the appropriateness of administrative and judicial decisions predicated on California law.

CONSIDERATION OF ALTERNATIVES

The SBE has determined 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, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

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 should be directed to:

Allison Smith, Consultant
Special Education Division
California Department of Education
1430 N Street, 2401

Sacramento, CA 95814
Telephone: 916-319-0377
ASmith@cde.ca.gov

Inquiries concerning the regulatory process may be directed to the Regulations Coordinator or Cynthia Olsen, 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, 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 prepared, 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 Allison Smith, Special Education Division, 1430 N Street, 2401, Sacramento, CA, 95814; telephone, 916-319-0377; fax, 916-327-3706. It is recommended that assistance be requested at least two weeks prior to the hearing.

- 1 • The State Board of Education has illustrated changes to the original text in the
2 following manner: text originally proposed to be added is underlined; text proposed to
3 be deleted is displayed in ~~strikeout~~.
4

5 **TITLE 5. EDUCATION**

6 **DIVISION 1. CALIFORNIA DEPARTMENT OF EDUCATION**

7 **CHAPTER 3. INDIVIDUALS WITH EXCEPTIONAL NEEDS**

8 **SUBCHAPTER 1. SPECIAL EDUCATION**

9 **ARTICLE 1. GENERAL PROVISIONS**

10 **§ 3001. Definitions.**

11 In addition to those found in Education Code sections 56020 - ~~56033~~ 56035, ~~Public~~
12 ~~Law 94-142 as amended~~ (20 U.S.C. Sections 1401(1) to (35) ~~et seq.~~), and 34 C.F.R.
13 ~~Title 34, Code of Federal Regulations, Part~~ Sections 300.4 - 300.45 and ~~301~~, the
14 following definitions are provided:

15 (a) "Access" means that the nonpublic, nonsectarian school shall provide State
16 Board of Education (SBE)-adopted, standards-aligned core curriculum and instructional
17 materials for kindergarten and grades 1 to 8 (K-8), inclusive; and provide standards-
18 aligned core curriculum and instructional materials for grades 9 to 12 (9-12), inclusive,
19 used by a local educational agency (LEA) that contracts with the nonpublic school.

20 . . .

21 (d) "Behavioral emergency" is the demonstration of a serious behavior problem:

22 (1) which has not previously been observed and for which a behavioral intervention
23 plan has not been developed; or

24 (2) for which a previously designed behavioral intervention is not effective. Approved
25 behavioral emergency procedures must be outlined in the special education local
26 ~~planning~~ area (SELPA) local plan.

27 . . .

28 (f) "Behavioral intervention case manager" means a designated certificated
29 school/district/county/nonpublic school or agency staff member(s) or other qualified
30 personnel pursuant to subdivision ~~(æ)~~(v) contracted by the school district or county
31 office or nonpublic school or agency who has been trained in behavior analysis with an
32 emphasis on positive behavioral interventions. The "behavioral intervention case

1 manager" is not intended to be a new staffing requirement and does not create any new
2 credentialing or degree requirements. The duties of the "behavioral intervention case
3 manager" may be performed by any existing staff member trained in behavioral analysis
4 with an emphasis on positive behavioral interventions, including, but not limited to, a
5 teacher, resource specialist, school psychologist, or program specialist.

6 (g) "Behavioral intervention plan" is a written document which is developed when the
7 individual exhibits a serious behavior problem that significantly interferes with the
8 implementation of the goals and where applicable, benchmarks or short-term objectives
9 of the individual's IEP. The "behavioral intervention plan" shall become part of the IEP.
10 The plan shall describe the frequency of the consultation to be provided by the
11 behavioral intervention case manager to the staff members and parents who are
12 responsible for implementing the plan. A copy of the plan shall be provided to the
13 person or agency responsible for implementation in noneducational settings. The plan
14 shall include the following:

15 . . .

16 ~~(h) "Board" means the California State Board of Education.~~

17 ~~(h)(i)~~ "CDE" means the California Department of Education.

18 ~~(i)(j)~~ "Certification" means authorization by the California State Superintendent of
19 Public Instruction (SSPI) for a nonpublic school or nonpublic agency to service
20 individuals with exceptional needs under a contract pursuant to the provisions of
21 Education Code section 56366(d).

22 ~~(j)(k)~~ "Contracting education agency," means school district, a SELPA, a charter
23 school participating as a member of a ~~special education local plan area~~ SELPA, or
24 county office of education.

25 ~~(k)(l)~~ "Credential" means any valid credential, life diploma, or document in special
26 education or pupil personnel services issued by, or under the jurisdiction of, the
27 California ~~SBE State Board of Education~~ prior to 1970 or the California Commission on
28 Teacher Credentialing, which entitles the holder thereof to perform services for which
29 certification qualifications are required.

30 ~~(l)(m)~~ "Department of Consumer Affairs" means the California Department of
31 Consumer Affairs.

1 ~~(m)(n)~~ "Dual enrollment" means the concurrent attendance of the individual in a
2 public education agency and a nonpublic school and/or a nonpublic agency.

3 ~~(o)~~ "Feasible" as used in Education Code section 56363(a) means the IEP team:

4 ~~(1) has determined the regular class teacher, special class teacher, and/or resource~~
5 ~~specialist possesses the necessary competencies and credentials/certificates to provide~~
6 ~~the designated instruction and service specified in the IEP, and~~

7 ~~(2) has considered the time and activities required to prepare for and provide the~~
8 ~~designated instruction and services and related services by the regular class teacher,~~
9 ~~special class teacher, and/or resource specialist.~~

10 ~~(p)~~ "Free appropriate public education" means special education and related
11 services that:

12 ~~(1) have been provided at public expense, under public supervision and direction~~
13 ~~and without charge;~~

14 ~~(2) meets any of the standards established by state or federal law;~~

15 ~~(3) include an appropriate preschool, elementary, or secondary school education in~~
16 ~~California; and~~

17 ~~(4) are provided in conformity with the IEP required under state and federal law.~~

18 ~~(n)(q)~~ "Individual Services Agreement" means a document, prepared by the LEA,
19 that specifies the length of time for which special education and designated instruction
20 and services and related services are to be provided, by nonpublic schools and/or
21 nonpublic agencies, to individuals with exceptional needs.

22 ~~(o)(r)~~ "Instructional day" shall be the same period of time as constitutes the regular
23 school day for that chronological peer group unless otherwise specified in the IEP.

24 ~~(p)(s)~~ "License" means a valid nonexpired document issued by a licensing agency
25 within the California Department of Consumer Affairs or other state licensing office
26 authorized to grant licenses and authorizing the bearer of the document to provide
27 certain professional services or refer to themselves using a specified professional title. If
28 a license is not available through an appropriate state licensing agency, a certificate of
29 registration with the appropriate professional organization at the national or state level,
30 which has standards established for the certificate that are equivalent to a license, shall
31 be deemed to be a license.

1 ~~(g)(t)~~ "Linguistically appropriate goals, objectives, and programs" means:

2 . . .

3 ~~(u)~~ "Local educational agency" (LEA) means a school district, a county office of
4 education, a charter school participating as a member of a special education local plan
5 area, or a special education local plan area.

6 ~~(r)(v)~~ "Local governing board," means either district or county board of education.

7 ~~(s)(w)~~ "Master contract" means the legal document that binds the public education
8 agency and the nonpublic school or nonpublic agency.

9 ~~(t)(x)~~ "Nonsectarian" means a private, nonpublic school or agency that is not owned,
10 operated, controlled by, or formally affiliated with a religious group or sect, whatever
11 might be the actual character of the education program or the primary purpose of the
12 facility and whose articles of incorporation and/or by-laws stipulate that the assets of
13 such agency or corporation will not inure to the benefit of a religious group.

14 ~~(u)(y)~~ "Primary language" means the language other than English, or other mode of
15 communication, the person first learned, or the language which is ~~spoken~~ used in the
16 person's home.

17 ~~(v)(z)~~ "Qualified" means that a person has met federal and state certification,
18 licensing, registration, or other comparable requirements which apply to the area in
19 which he or she is providing special education or related services, or, in the absence of
20 such requirements, the state-education-agency-approved or recognized requirements,
21 and adheres to the standards of professional practice established in federal and state
22 law or regulation, including the standards contained in the California Business and
23 Professions Code. Nothing in this definition shall be construed as restricting the
24 activities ~~in~~ or services of a graduate needing direct hours leading to licensure, or of a
25 student teacher or intern leading to a graduate degree at an accredited or approved
26 college or university, as authorized by state laws or regulations.

27 ~~(aa)~~ "Related services" means transportation, and such developmental, corrective,
28 and other supportive services (including speech pathology and audiology, psychological
29 services, physical and occupational therapy, recreation, including therapeutic
30 recreation, social work services, counseling services, including rehabilitation counseling,
31 and medical services, except that such medical services shall be for diagnostic and

1 ~~evaluation purposes only) as required to assist an individual with exceptional needs to~~
2 ~~benefit from special education, and includes the early identification and assessment of~~
3 ~~disabling conditions in children. Related services include, but are not limited to,~~
4 ~~designated instruction and services. The list of related services is not exhaustive and~~
5 ~~may include other developmental, corrective, or supportive services if they are required~~
6 ~~to assist a child with a disability to benefit from special education. Each related service~~
7 ~~defined under this part may include appropriate administrative and supervisory activities~~
8 ~~that are necessary for program planning, management, and evaluation.~~

9 ~~(w)(ab)~~ "Serious behavior problems" means the individual's behaviors which are self-
10 injurious, assaultive, or cause serious property damage and other severe behavior
11 problems that are pervasive and maladaptive for which instructional/behavioral
12 approaches specified in the student's IEP are found to be ineffective.

13 ~~(ac)~~ "Special education" means specially designed instruction, at no cost to the
14 parents, to meet the unique needs of individuals with exceptional needs whose
15 educational needs cannot be met with modification of the regular instruction program,
16 and related services, at no cost to the parent, that may be needed to assist these
17 individuals to benefit from specially designed instruction.

18 ~~(x)(ad)~~ "Specialized physical health care services" means those health services,
19 including catheterization, gastric tube feeding, suctioning or other services prescribed
20 by the individual's licensed physician and surgeon requiring medically related training
21 for the individual who performs the services and which are necessary during the school
22 day to enable the individual to attend school.

23 ~~(y)(ae)~~ "Specified education placement" means that unique combination of facilities,
24 personnel, location or equipment necessary to provide instructional services to an
25 individual with exceptional needs, as specified in the IEP, in any one or a combination of
26 public, private, home and hospital, or residential settings. The IEP team shall document
27 its rationale for placement in other than the pupil's school and classroom in which the
28 pupil would otherwise attend if the pupil were not disabled. The documentation shall
29 indicate why the pupil's disability prevents his or her needs from being met in a less
30 restrictive environment even with the use of supplementary aids and services.

31 ~~(z)(af)~~ "SSPI" means the California State Superintendent of Public Instruction.

1 ~~(aa)(ag)~~ "Temporary physical disability" means a disability incurred while an
2 individual was in a regular education class and which at the termination of the
3 temporary physical disability, the individual can, without special intervention, reasonably
4 be expected to return to his or her regular education class.

5 NOTE: Authority cited: Sections 56100 and ~~56523~~, Education Code. Reference:
6 Sections ~~33000, 33126, 33300, 49423.5, and 56026, 56026.3, 56034, 56320, 56361,~~
7 ~~56366, 56366.10, 56520 and 56523~~, Education Code; ~~Section 2, Article IX, Constitution~~
8 ~~of the State of California; 20 U.S.C. Section 1401; and 34 C.F.R. Sections 300.4 -~~
9 300.45 and 300.320.

11 **ARTICLE 3. IDENTIFICATION, REFERRAL AND ASSESSMENT**

12 **§ 3023. Assessment and Reassessment.**

13 (a) In addition to provisions of Education Code ~~S~~sections 56320 and 56381,
14 assessments and reassessments shall be administered by qualified personnel who are
15 competent in both the oral or sign language skills and written skills of the individual's
16 primary language or mode of communication and have a knowledge and understanding
17 of the cultural and ethnic background of the pupil. If it clearly is not feasible to do so, an
18 interpreter must be used, and the assessment report shall document this condition and
19 note that the validity of the assessment may have been affected.

20 (b) The normal process of second-language acquisition, as well as manifestations of
21 dialect and sociolinguistic variance shall not be diagnosed as a ~~handicapping~~ disabling
22 condition.

23 NOTE: Authority cited: Section 56100~~(a), (i) and (j)~~, Education Code. Reference:
24 Sections 56001, 56320, 56324, ~~and 56327, and 56381~~, Education Code; and 34 C.F.R.
25 Sections 300.304, 300.305 and 300.310 ~~300.530, 300.532 and 300.543.~~

27 **§ 3025. Assessment Option: Referral to State Schools for Further Assessment.**

28 (a) Prior to referring a pupil for further assessment to California Schools for the Deaf
29 or Blind or the Diagnostic Centers ~~Schools~~, districts, ~~special education local plan areas~~
30 SELPAs, counties, or other agencies providing education services, shall first conduct
31 assessments at the local level within the capabilities of that agency. Results of local

1 assessments shall be provided to parent(s) and shall state the reasons for referral to the
2 State School. Results of local assessments shall accompany the referral request.

3 (b) The Schools for the Deaf and Blind and the Diagnostic ~~Centers Schools~~ shall
4 conduct assessments pursuant to the provisions of Education Code section 56320 et
5 seq.

6 (c) A representative of the district, ~~special education local plan areas~~ SELPAs, or
7 county ~~individualized education program~~ IEP team shall participate in the staffing
8 meeting and shall receive the final report and recommendations. Conference calls are
9 acceptable forms of participation, provided that written reports and recommendations
10 have been received by the representative prior to the meeting.

11 NOTE: Authority cited: Section 56100(a), Education Code. Reference: Section 56326,
12 Education Code.

13

14 **§ 3029. Contracting for Individually Administered Tests of Psychological**
15 **Functioning Due to the Unavailability of School Psychologists.**

16 (a) School districts, county offices, and ~~special education local plan areas~~ SELPAs
17 shall ensure that credentialed school psychologists are available to perform individually
18 administered tests of intellectual or emotional functioning pursuant to Education Code
19 ~~Section 56320(b)(3) of the Education Code.~~

20 (b) Due to the temporary unavailability of a credentialed school psychologist, a
21 school district or county office may contract with qualified personnel to perform
22 individually administered tests of intellectual or emotional functioning including
23 necessary reports pursuant to Education Code ~~Section 56327 of the Education Code.~~

24 (c) The district or county office shall seek appropriately credentialed school
25 psychologists for employment. These efforts, which include, but are not limited to,
26 contacting institutions of higher education having approved school psychology programs
27 and utilizing established personnel recruitment practices, shall be documented and
28 available for review.

29 ~~(d) The only persons qualified to provide assessment services under this section~~
30 ~~shall be educational psychologists licensed by the Board of Behavioral Science~~
31 ~~Examiners.~~

1 NOTE: Authority cited: Sections 56100(a) and 56320(f), Education Code. Reference:
2 Sections 56320(b) and 56327, Education Code.

3

4

ARTICLE 3.1. INDIVIDUALS WITH EXCEPTIONAL NEEDS

5

§ 3030. Eligibility Criteria.

6 (a) A ~~pupil~~ child shall qualify as an individual with exceptional needs, pursuant to
7 Education Code Section 56026 of the Education Code, if the results of the assessment
8 as required by Education Code Section 56320 demonstrate that the degree of the
9 ~~pupil's~~ child's impairment as described in ~~Section 3030 subdivisions (a)(b)(1) through~~
10 ~~(b)(13)(f)~~ requires special education in one or more of the program options authorized
11 by Education Code Section 56361 of the Education Code. The decision as to the
12 whether or not the assessment results demonstrate that the degree of the ~~pupil's~~ child's
13 impairment requires special education shall be made by the ~~individualized education~~
14 ~~program~~ IEP team, including personnel in accordance with Education Code Section
15 ~~56341(d)(b) of the Education Code~~. The ~~individualized education program~~ IEP team
16 shall take into account all the relevant material which is available on the ~~pupil~~ child. No
17 single score or product of scores shall be used as the sole criterion for the decision of
18 the ~~individualized education program~~ IEP team as to the ~~pupil's~~ child's eligibility for
19 special education. ~~The specific processes and procedures for implementation of these~~
20 ~~criteria shall be developed by each Special Education Local Plan Area and be included~~
21 ~~in the local plan pursuant to Section 56220(a) of the Education Code.~~

22 (a) ~~A pupil has a hearing impairment, whether permanent or fluctuating, which~~
23 ~~impairs the processing of linguistic information through hearing, even with amplification,~~
24 ~~and which adversely affects educational performance. Processing linguistic information~~
25 ~~includes speech and language reception and speech and language discrimination.~~

26 (b) ~~A pupil has concomitant hearing and visual impairments, the combination of~~
27 ~~which causes severe communication, developmental, and educational problems.~~

28 (b) The disability terms used in defining an individual with exceptional needs are as
29 follows:

30 (1) Autism means a developmental disability significantly affecting verbal and
31 nonverbal communication and social interaction, generally evident before age three,

1 and adversely affecting a child's educational performance. Other characteristics often
2 associated with autism are engagement in repetitive activities and stereotyped
3 movements, resistance to environmental change or change in daily routines, and
4 unusual responses to sensory experiences.

5 (A) Autism does not apply if a child's educational performance is adversely affected
6 primarily because the child has an emotional disturbance, as defined in subdivision
7 (b)(4) of this section.

8 (B) A child who manifests the characteristics of autism after age three could be
9 identified as having autism if the criteria in subdivision (b)(1) of this section are satisfied.

10 (2) Deaf-blindness means concomitant hearing and visual impairments, the
11 combination of which causes such severe communication and other developmental and
12 educational needs that they cannot be accommodated in special education programs
13 solely for children with deafness or children with blindness.

14 (3) Deafness means a hearing impairment that is so severe that the child is impaired
15 in processing linguistic information through hearing, with or without amplification that
16 adversely affects a child's educational performance.

17 (4) Emotional disturbance means a condition exhibiting one or more of the following
18 characteristics over a long period of time and to a marked degree that adversely affects
19 a child's educational performance:

20 (A) An inability to learn that cannot be explained by intellectual, sensory, or health
21 factors.

22 (B) An inability to build or maintain satisfactory interpersonal relationships with peers
23 and teachers.

24 (C) Inappropriate types of behavior or feelings under normal circumstances.

25 (D) A general pervasive mood of unhappiness or depression.

26 (E) A tendency to develop physical symptoms or fears associated with personal or
27 school problems.

28 (F) Emotional disturbance includes schizophrenia. The term does not apply to
29 children who are socially maladjusted, unless it is determined that they have an
30 emotional disturbance under subdivision (b)(4) of this section.

31 (5) Hearing impairment means an impairment in hearing, whether permanent or

1 fluctuating, that adversely affects a child's educational performance but that is not
2 included under the definition of deafness in this section.

3 (6) Intellectual disability means significantly subaverage general intellectual
4 functioning, existing concurrently with deficits in adaptive behavior and manifested
5 during the developmental period that adversely affects a child's educational
6 performance.

7 (7) Multiple disabilities means concomitant impairments, such as intellectual
8 disability-blindness or intellectual disability-orthopedic impairment, the combination of
9 which causes such severe educational needs that they cannot be accommodated in
10 special education programs solely for one of the impairments. Multiple disabilities does
11 not include deaf-blindness.

12 (8) Orthopedic impairment means a severe orthopedic impairment that adversely
13 affects a child's educational performance. The term includes impairments caused by a
14 congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone
15 tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations,
16 and fractures or burns that cause contractures).

17 (9) Other health impairment means having limited strength, vitality, or alertness,
18 including a heightened alertness to environmental stimuli, that results in limited
19 alertness with respect to the educational environment that:

20 (A) Is due to chronic or acute health problems such as asthma, attention deficit
21 disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition,
22 hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and
23 Tourette syndrome; and

24 (B) Adversely affects a child's educational performance.

25 (10) Specific learning disability means a disorder in one or more of the basic
26 psychological processes involved in understanding or in using language, spoken or
27 written, that may have manifested itself in the imperfect ability to listen, think, speak,
28 read, write, spell, or do mathematical calculations, including conditions such as
29 perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and
30 developmental aphasia. The basic psychological processes include attention, visual
31 processing, auditory processing, sensory-motor skills, cognitive abilities including

1 association, conceptualization and expression.

2 (A) Specific learning disabilities do not include learning problems that are primarily
3 the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional
4 disturbance, or of environmental, cultural, or economic disadvantage.

5 (B) In determining whether a pupil has a specific learning disability, the public
6 agency may consider whether a pupil has a severe discrepancy between intellectual
7 ability and achievement in oral expression, listening comprehension, written expression,
8 basic reading skill, reading comprehension, mathematical calculation, or mathematical
9 reasoning. The decision as to whether or not a severe discrepancy exists shall take into
10 account all relevant material which is available on the pupil. No single score or product
11 of scores, test or procedure shall be used as the sole criterion for the decisions of the
12 IEP team as to the pupil's eligibility for special education. In determining the existence of
13 a severe discrepancy, the IEP team shall use the following procedures:

14 1. When standardized tests are considered to be valid for a specific pupil, a severe
15 discrepancy is demonstrated by: first, converting into common standard scores, using a
16 mean of 100 and standard deviation of 15, the achievement test score and the
17 intellectual ability test score to be compared; second, computing the difference between
18 these common standard scores; and third, comparing this computed difference to the
19 standard criterion which is the product of 1.5 multiplied by the standard deviation of the
20 distribution of computed differences of students taking these achievement and ability
21 tests. A computed difference which equals or exceeds this standard criterion, adjusted
22 by one standard error of measurement, the adjustment not to exceed 4 common
23 standard score points, indicates a severe discrepancy when such discrepancy is
24 corroborated by other assessment data which may include other tests, scales,
25 instruments, observations and work samples, as appropriate.

26 2. When standardized tests are considered to be invalid for a specific pupil, the
27 discrepancy shall be measured by alternative means as specified on the assessment
28 plan.

29 3. If the standardized tests do not reveal a severe discrepancy as defined in
30 subdivisions 1. or 2. above, the IEP team may find that a severe discrepancy does exist,
31 provided that the team documents in a written report that the severe discrepancy

1 between ability and achievement exists as a result of a disorder in one or more of the
2 basic psychological processes. The report shall include a statement of the area, the
3 degree, and the basis and method used in determining the discrepancy. The report shall
4 contain information considered by the team which shall include, but not be limited to:

5 (i) Data obtained from standardized assessment instruments;

6 (ii) Information provided by the parent;

7 (iii) Information provided by the pupil's present teacher;

8 (iv) Evidence of the pupil's performance in the regular and/or special education
9 classroom obtained from observations, work samples, and group test scores;

10 (v) Consideration of the pupil's age, particularly for young children; and

11 (vi) Any additional relevant information.

12 4. A severe discrepancy shall not be primarily the result of limited school experience
13 or poor school attendance.

14 (C) Whether or not a pupil exhibits a severe discrepancy as described in subdivision
15 (b)(10)(B) above, a pupil may be determined to have a specific learning disability if:

16 1. The pupil does not achieve adequately for the pupil's age or to meet State-
17 approved grade-level standards in one or more of the following areas, when provided
18 with learning experiences and instruction appropriate for the pupil's age or State-
19 approved grade-level standards:

20 (i) Oral expression.

21 (ii) Listening comprehension.

22 (iii) Written expression.

23 (iv) Basic reading skill.

24 (v) Reading fluency skills.

25 (vi) Reading comprehension.

26 (vii) Mathematics calculation.

27 (viii) Mathematics problem solving, and

28 2.(i) The pupil does not make sufficient progress to meet age or State-approved
29 grade-level standards in one or more of the areas identified in subdivision (b)(10)(C)(1)
30 of this section when using a process based on the pupil's response to scientific,
31 research-based intervention; or

1 (ii) The pupil exhibits a pattern of strengths and weaknesses in performance,
2 achievement, or both, relative to age, State-approved grade-level standards, or
3 intellectual development, that is determined by the group to be relevant to the
4 identification of a specific learning disability, using appropriate assessments, consistent
5 with 34 C.F.R. sections 300.304 and 300.305; and

6 3. The findings under subdivisions (b)(10)(C)(1) and (2) of this section are not
7 primarily the result of:

8 (i) A visual, hearing, or motor disability;

9 (ii) Intellectual disability;

10 (iii) Emotional disturbance;

11 (iv) Cultural factors;

12 (v) Environmental or economic disadvantage; or

13 (vi) Limited English proficiency.

14 4. To ensure that underachievement in a pupil suspected of having a specific
15 learning disability is not due to lack of appropriate instruction in reading or math, the
16 group making the decision must consider:

17 (i) Data that demonstrate that prior to, or as a part of, the referral process, the pupil
18 was provided appropriate instruction in regular education settings, delivered by qualified
19 personnel; and

20 (ii) Data-based documentation of repeated assessments of achievement at
21 reasonable intervals, reflecting formal assessment of student progress during
22 instruction, which was provided to the pupil's parents.

23 5. In determining whether a pupil has a specific learning disability, the public agency
24 must ensure that the pupil is observed in the pupil's learning environment in accordance
25 with 34 C.F.R. section 300.310, and the eligibility determination must be documented in
26 accordance with 34 C.F.R. section 300.311.

27 (11)(e) A pupil has a language or speech disorder as defined in Education Code
28 §section 56333 of the Education Code, and it is determined that the pupil's disorder
29 meets one or more of the following criteria:

30 (A)(1) Articulation disorder.

31 1.(A) The pupil displays reduced intelligibility or an inability to use the speech

1 mechanism which significantly interferes with communication and attracts adverse
2 attention. Significant interference in communication occurs when the pupil's production
3 of single or multiple speech sounds on a developmental scale of articulation
4 competency is below that expected for his or her chronological age or developmental
5 level, and which adversely affects educational performance.

6 ~~2.(B)~~ A pupil does not meet the criteria for an articulation disorder if the sole
7 assessed disability is an abnormal swallowing pattern.

8 ~~(B)(2)~~ Abnormal Voice. A pupil has an abnormal voice which is characterized by
9 persistent, defective voice quality, pitch, or loudness.

10 ~~(C)(3)~~ Fluency Disorders. A pupil has a fluency disorder when the flow of verbal
11 expression including rate and rhythm adversely affects communication between the
12 pupil and listener.

13 ~~(D)(4)~~ Language Disorder. The pupil has an expressive or receptive language
14 disorder when he or she meets one of the following criteria:

15 ~~1.(A)~~ The pupil scores at least 1.5 standard deviations below the mean, or below the
16 7th percentile, for his or her chronological age or developmental level on two or more
17 standardized tests in one or more of the following areas of language development:
18 morphology, syntax, semantics, or pragmatics. When standardized tests are considered
19 to be invalid for the specific pupil, the expected language performance level shall be
20 determined by alternative means as specified on the assessment plan, or

21 ~~2.(B)~~ The pupil scores at least 1.5 standard deviations below the mean or the score
22 is below the 7th percentile for his or her chronological age or developmental level on
23 one or more standardized tests in one of the areas listed in subsection (A) and displays
24 inappropriate or inadequate usage of expressive or receptive language as measured by
25 a representative spontaneous or elicited language sample of a minimum of fifty
26 utterances. The language sample must be recorded or transcribed and analyzed, and
27 the results included in the assessment report. If the pupil is unable to produce this
28 sample, the language, speech, and hearing specialist shall document why a fifty
29 utterance sample was not obtainable and the contexts in which attempts were made to
30 elicit the sample. When standardized tests are considered to be invalid for the specific
31 pupil, the expected language performance level shall be determined by alternative

1 means as specified in the assessment plan.

2 (12) Traumatic brain injury means an acquired injury to the brain caused by an
3 external physical force, resulting in total or partial functional disability or psychosocial
4 impairment, or both, that adversely affects a child's educational performance. Traumatic
5 brain injury applies to open or closed head injuries resulting in impairments in one or
6 more areas, such as cognition; language; memory; attention; reasoning; abstract
7 thinking; judgment; problem-solving; sensory, perceptual, and motor abilities;
8 psychosocial behavior; physical functions; information processing; and speech.

9 (A) Traumatic brain injury does not apply to brain injuries that are congenital or
10 degenerative, or to brain injuries induced by birth trauma.

11 (13) Visual impairment including blindness means an impairment in vision that, even
12 with correction, adversely affects a child's educational performance. The term includes
13 both partial sight and blindness.

14 ~~(d) A pupil has a visual impairment which, even with correction, adversely affects a~~
15 ~~pupil's educational performance.~~

16 ~~(e) A pupil has a severe orthopedic impairment which adversely affects the pupil's~~
17 ~~educational performance. Such orthopedic impairments include impairments caused by~~
18 ~~congenital anomaly, impairments caused by disease, and impairments from other~~
19 ~~causes.~~

20 ~~(f) A pupil has limited strength, vitality or alertness, due to chronic or acute health~~
21 ~~problems, including but not limited to a heart condition, cancer, leukemia, rheumatic~~
22 ~~fever, chronic kidney disease, cystic fibrosis, severe asthma, epilepsy, lead poisoning,~~
23 ~~diabetes, tuberculosis and other communicable infectious diseases, and hematological~~
24 ~~disorders such as sickle cell anemia and hemophilia which adversely affects a pupil's~~
25 ~~educational performance. In accordance with Section 5626(e) of the Education Code,~~
26 ~~such physical disabilities shall not be temporary in nature as defined by Section~~
27 ~~3001(v).~~

28 ~~(g) A pupil exhibits any combination of the following autistic-like behaviors, to include~~
29 ~~but not limited to:~~

30 ~~(1) An inability to use oral language for appropriate communication.~~

31 ~~(2) A history of extreme withdrawal or relating to people inappropriately and~~

- 1 continued impairment in social interaction from infancy through early childhood.
- 2 ~~(3) An obsession to maintain sameness.~~
- 3 ~~(4) Extreme preoccupation with objects or inappropriate use of objects or both.~~
- 4 ~~(5) Extreme resistance to controls.~~
- 5 ~~(6) Displays peculiar motoric mannerisms and motility patterns.~~
- 6 ~~(7) Self-stimulating, ritualistic behavior.~~
- 7 ~~(h) A pupil has significantly below average general intellectual functioning existing~~
8 ~~concurrently with deficits in adaptive behavior and manifested during the developmental~~
9 ~~period, which adversely affect a pupil's educational performance.~~
- 10 ~~(i) Because of a serious emotional disturbance, a pupil exhibits one or more of the~~
11 ~~following characteristics over a long period of time and to a marked degree, which~~
12 ~~adversely affect educational performance:~~
- 13 ~~(1) An inability to learn which cannot be explained by intellectual, sensory, or health~~
14 ~~factors.~~
- 15 ~~(2) An inability to build or maintain satisfactory interpersonal relationships with peers~~
16 ~~and teachers.~~
- 17 ~~(3) Inappropriate types of behavior or feelings under normal circumstances exhibited~~
18 ~~in several situations.~~
- 19 ~~(4) A general pervasive mood of unhappiness or depression.~~
- 20 ~~(5) A tendency to develop physical symptoms or fears associated with personal or~~
21 ~~school problems.~~
- 22 ~~(j) A pupil has a disorder in one or more of the basic psychological processes~~
23 ~~involved in understanding or in using language, spoken or written, which may manifest~~
24 ~~itself in an impaired ability to listen, think, speak, read, write, spell, or do mathematical~~
25 ~~calculations, and has a severe discrepancy between intellectual ability and achievement~~
26 ~~in one or more of the academic areas specified in Section 56337(a) of the Education~~
27 ~~Code. For the purpose Section 3030(j)~~
- 28 ~~(1) Basic psychological processes include attention, visual processing, auditory~~
29 ~~processing, sensory-motor skills, cognitive abilities including association,~~
30 ~~conceptualization and expression.~~
- 31 ~~(2) Intellectual ability includes both acquired learning and learning potential and shall~~

1 ~~be determined by a systematic assessment of intellectual functioning.~~

2 ~~(3) The level of achievement includes the pupil's level of competence in materials~~
3 ~~and subject matter explicitly taught in school and shall be measured by standardized~~
4 ~~achievement tests.~~

5 ~~(4) The decision as to whether or not a severe discrepancy exists shall be made by~~
6 ~~the individualized education program team, including assessment personnel in~~
7 ~~accordance with Section 56341(d), which takes into account all relevant material which~~
8 ~~is available on the pupil. No single score or product of scores, test or procedure shall be~~
9 ~~used as the sole criterion for the decisions of the individualized education program team~~
10 ~~as to the pupil's eligibility for special education. In determining the existence of a severe~~
11 ~~discrepancy, the individualized education program team shall use the following~~
12 ~~procedures:~~

13 ~~(A) When standardized tests are considered to be valid for a specific pupil, a severe~~
14 ~~discrepancy is demonstrated by: first, converting into common standard scores, using a~~
15 ~~mean of 100 and standard deviation of 15, the achievement test score and the ability~~
16 ~~test score to be compared; second, computing the difference between these common~~
17 ~~standard scores; and third, comparing this computed difference to the standard criterion~~
18 ~~which is the product of 1.5 multiplied by the standard deviation of the distribution of~~
19 ~~computed differences of students taking these achievement and ability tests. A~~
20 ~~computed difference which equals or exceeds this standard criterion, adjusted by one~~
21 ~~standard error of measurement, the adjustment not to exceed 4 common standard~~
22 ~~score points, indicates a severe discrepancy when such discrepancy is corroborated by~~
23 ~~other assessment data which may include other tests, scales, instruments, observations~~
24 ~~and work samples, as appropriate.~~

25 ~~(B) When standardized tests are considered to be invalid for a specific pupil, the~~
26 ~~discrepancy shall be measured by alternative means as specified on the assessment~~
27 ~~plan.~~

28 ~~(C) If the standardized tests do not reveal a severe discrepancy as defined in~~
29 ~~subparagraphs (A) or (B) above, the individualized education program team may find~~
30 ~~that a severe discrepancy does exist, provided that the team documents in a written~~
31 ~~report that the severe discrepancy between ability and achievement exists as a result of~~

1 a disorder in one or more of the basic psychological processes. The report shall include
2 a statement of the area, the degree, and the basis and method used in determining the
3 discrepancy. The report shall contain information considered by the team which shall
4 include, but not be limited to:

5 1. Data obtained from standardized assessment instruments;

6 2. Information provided by the parent;

7 3. Information provided by the pupil's present teacher;

8 4. Evidence of the pupil's performance in the regular and/or special education
9 classroom obtained from observations, work samples, and group test scores;

10 5. Consideration of the pupil's age, particularly for young children; and

11 6. Any additional relevant information.

12 (5) The discrepancy shall not be primarily the result of limited school experience or
13 peer school attendance.

14 NOTE: Authority cited: ~~Statutes of 1981, Chapter 1094, Section 25(a); and Section~~
15 ~~56100(a), (g) and (i), Education Code. Reference: Sections 56026, 56320, 56333 and~~
16 ~~56337, Education Code; 20 U.S.C. Sections 1401(a)(15)(3) and 1412(5) 1414(a) and~~
17 ~~(b); 34 C.F.R. Sections 300.5(b)(7) and (9), 300.532(a)(2), (d) and (e), 300.533,~~
18 ~~300.540, 300.541-43 300.8, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307,~~
19 ~~300.308, 300.309 and 300.311;~~ and sections 56026, 56320, 56333 and 56337,
20 Education Code.

21
22 **§ 3031. Additional Eligibility Criteria for Individuals with Exceptional Needs - Age**
23 **Birth to Four Younger Than Three Years and Nine Months.**

24 (a) A child, age birth to four younger than three years and nine months, shall qualify
25 as an individual with exceptional needs pursuant to Education Code Section
26 56026(c)(1) and (2) and Government Code section 95014 if the Individualized
27 Education Program Family Service Plan (IFSP) ~~T~~team determines that the child meets
28 the following criteria:

29 (1) Is identified as an individual with exceptional needs pursuant to Section 3030,
30 and

31 (2) Is identified as requiring intensive special education and services by meeting one
32 of the following:

1 (A) The child is functioning at or below 50 percent % of his or her chronological age
2 level in any one of the following skill areas:

- 3 1. gross or fine motor development;
- 4 2. receptive or expressive language development;
- 5 3. social, ~~or~~ emotional or adaptive development;
- 6 4. cognitive development; and
- 7 5. visual and hearing development.

8 (B) The child is functioning ~~between 51% and 75% of his or her chronological age~~
9 ~~level in any two of the skill areas with~~ at least a 33 percent delay in two or more
10 developmental areas identified in ~~S~~section 3031(2)(A).

11 (C) The child has a disabling medical condition or congenital syndrome which the
12 ~~Individualized Education Program IFSP T~~team determines has a high predictability of
13 requiring intensive special education and services.

14 (b) Programs for individuals with exceptional needs younger than three years of age
15 are permissive in accordance with Education Code Ssection 56001(c) ~~of the Education~~
16 ~~Code~~ except for those programs mandated pursuant to Education Code Ssection 56425
17 ~~of the Education Code.~~

18 NOTE: Authority cited: ~~Statutes of 1981, Chapter 1094, Section 25(a); and Section~~
19 ~~56100(a), (g) and (i), Education Code. Reference: Sections 56001 and 56026,~~
20 Education Code; Section 95014, Government Code; 20 U.S.C. Section
21 1401(a)(15)(3)(B), 20 U.S.C. Section 1432(a)(5); 34 C.F.R. Sections 300.5 303.21,
22 300.25; Statutes of 1981, Chapter 1094, Section 25(a); and Sections 56026; 56030.5,
23 56333, and 56337, Education Code.

24 25 26 **ARTICLE 4. INSTRUCTIONAL PLANNING AND INDIVIDUALIZED EDUCATION** 27 **PROGRAM**

28 **§ 3040. Individualized Education Program Implementation. [Repealed]**

29 (a) ~~Upon completion of the individualized education program, that individualized~~
30 ~~education program shall be implemented as soon as possible following the~~
31 ~~individualized education program team meeting.~~

1 ~~(b) A copy of the individualized education program shall be provided to the parents~~
2 ~~at no cost, and a copy of the individualized education program shall be provided in the~~
3 ~~primary language at the request of the parent.~~

4 ~~(c) The individualized education program shall show a direct relationship between~~
5 ~~the present levels of performance, the goals and objectives, and the specific~~
6 ~~educational services to be provided.~~

7 NOTE: Authority cited: Section 56100(a), (i) and (j), Education Code. Reference:
8 Section 56341, Education Code; and 34 C.F.R. Sections 300.342 - 300.345.

9
10 **§ 3043. Extended School Year.**

11 Extended school year services shall be provided, in accordance with 34 C.F.R.
12 section 300.106, for each individual with exceptional needs who has unique needs and
13 requires special education and related services in excess of the regular academic year.
14 Such individuals shall have ~~handicaps~~ disabilities which are likely to continue indefinitely
15 or for a prolonged period, and interruption of the pupil's educational programming may
16 cause regression, when coupled with limited recoupment capacity, rendering it
17 impossible or unlikely that the pupil will attain the level of self-sufficiency and
18 independence that would otherwise be expected in view of his or her ~~handicapping~~
19 disabling condition. The lack of clear evidence of such factors may not be used to deny
20 an individual an extended school year program if the ~~individualized education program~~
21 IEP team determines the need for such a program and includes extended school year in
22 the ~~individualized education program~~ IEP pursuant to subdivision subsection (f).

23 (a) Extended year special education and related services shall be provided by a
24 school district, SELPA ~~special education local plan area~~, or county office offering
25 programs during the regular academic year.

26 (b) Individuals with exceptional needs who may require an extended school year are
27 those who:

28 (1) Are placed in special classes ~~or centers~~; or

29 (2) Are individuals with exceptional needs whose IEPs ~~individualized education~~
30 ~~programs~~ specify an extended year program as determined by the Individualized
31 ~~Education Program~~ IEP ~~T~~team.

1 . . .

2 (d) An extended year program shall be provided for a minimum of 20 instructional
3 days, including holidays. For reimbursement purposes:

4 (1) A maximum of 55 instructional days excluding holidays shall be allowed for
5 individuals in special classes ~~or centers~~ for pupils with severe disabilities ~~the severely~~
6 ~~handicapped~~; and

7 (2) A maximum of 30 instructional days excluding holidays shall be allowed for all
8 other eligible pupils needing extended year.

9 (e) A local governing board may increase the number of instructional days during the
10 extended year period, but shall not claim revenue for average daily attendance
11 generated beyond the maximum instructional days allowed in subdivisions ~~subsection~~
12 (d)(1) and (2).

13 (f) An extended year program, when needed, as determined by the IEP
14 ~~Individualized Education Program~~ team, shall be included in the pupil's IEP
15 ~~individualized education program~~.

16 (g) In order to qualify for average daily attendance revenue for extended year pupils,
17 all of the following conditions must be met:

18 (1) Extended year special education shall be the same length of time as the school
19 day for pupils of the same age level attending summer school in the district in which the
20 extended year program is provided, but not less than the minimum school day for that
21 age unless otherwise specified in the IEP ~~individualized education program~~ to meet a
22 pupil's unique needs.

23 (2) The special education and related services offered during the extended year
24 period are comparable in standards, scope and quality to the special education program
25 offered during the regular academic year.

26 (h) If during the regular academic year an individual's IEP ~~individualized education~~
27 ~~program~~ specifies integration in the regular classroom, a public education agency is not
28 required to meet that component of the IEP ~~individualized education program~~ if no
29 regular summer school programs are being offered by that agency.

30 . . .

31 NOTE: Authority cited: Section 56100(a) and (j), Education Code. Reference: Sections

1 37600, 41976.5 and 56345, Education Code; and 34 C.F.R. Section 300.346 300.106.

2
3 **ARTICLE 5. IMPLEMENTATION (PROGRAM COMPONENTS)**

4 **§ 3051. Standards for ~~Designated Instruction and Services (DIS) and Related~~**
5 **Services.**

6 (a) General Provisions.

7 (1) ~~Designated instruction and services and r~~Related services may be provided to
8 individuals or to small groups in a specialized area of educational need, and throughout
9 the full continuum of educational settings.

10 (2) ~~Designated instruction and services and r~~Related services, when needed are
11 determined by the IEP.

12 (3) ~~All entities and individuals providing designated instruction and services and~~
13 ~~related services shall be qualified pursuant to sections 3060-3065 of this title.~~

14 (3)(4) All entities and individuals providing ~~designated instruction and services and~~
15 related services shall meet the qualifications found in 34 C.F.R. section 300.156(b) and
16 shall be either:

17 (A) Employees of the school district or county office, or

18 (B) Employed under contract pursuant to Education Code sections 56365-56366, or

19 (C) Employees, vendors or contractors of the State Departments of Health Care
20 Services or State Hospitals Mental Health, or any designated local public health or
21 mental health agency.

22 NOTE: Authority cited: Sections 33031, 56100 and 56366.1, Education Code.

23 Reference: Sections 56363, 56365 and 56366, Education Code; and 34 C.F.R. Sections
24 300.12, 300.34 and 300.156(b).

25
26 **§ 3051.1. Language, Speech and Hearing Development and Remediation.**

27 (a) ~~An individual holding an appropriate credential with specialization in language,~~
28 ~~speech and hearing may provide services~~ Language, Speech and Hearing
29 Development and Remediation services ~~which~~ include:

30 (1) Referral and assessment of individuals suspected of having a disorder of
31 language, speech, or hearing. Such individuals are not considered as part of the

1 caseload pursuant to Education Code ~~Section 56363.3 of the Education Code~~ unless
2 an IEP individualized education program is developed and services are provided
3 pursuant to ~~Sections~~ 3051.1(a)(2) and (3).

4 (2) Specialized instruction and services for individuals with disorders of language,
5 speech, and hearing, including monitoring of pupil progress on a regular basis,
6 providing information for the review, and when necessary participating in the review and
7 revision of ~~individualized educational programs~~ IEPs of pupils.

8 . . .

9 (b) Caseloads of full-time equivalent language, speech and hearing specialists
10 providing instruction and services within the district, SELPA ~~special education local plan~~
11 ~~area~~, or county office shall not exceed a district-wide, ~~special education local plan area~~
12 SELPA-wide, or county-wide average of ~~fifty-five (55)~~ individuals unless prior written
13 approval has been granted by the SSPI ~~State Superintendent of Public Instruction~~.

14 (c) Services may be provided by an ~~aide~~ aide working under the direct supervision
15 of a ~~credentialed~~ qualified language, speech, and hearing specialist if specified in the
16 IEP individualized education program. No more than two aides may be supervised by
17 one ~~credentialed~~ qualified language, speech, and hearing specialist. The case loads of
18 persons in ~~subsection~~ subdivision (b) shall not be increased by the use of aides
19 ~~noncertificated personnel~~.

20 (d) Individuals providing language, speech and hearing development and
21 remediation services shall be qualified.

22 NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Sections
23 ~~56363(b)(1)~~ and 56363.3, and Education Code; and 34 C.F.R. ~~Sections 300.13(b)(12)~~
24 300.34 and 300.156(b)(1).

25

26 **§ 3051.2. Audiological Services.**

27 (a) In addition to provisions of Title 34, ~~Code of Federal Regulations~~, C.F.R. Section
28 ~~300.13(b)(1)~~ 300.34, designated audiological instruction and services may include:

29 . . .

30 (3) Planning, organizing, and implementing an audiology program for individuals with
31 auditory dysfunctions, as specified in the IEP individualized education program.

32 . . .

1 (b) ~~The person~~ Individuals providing audiological services shall ~~hold a valid~~
2 ~~credential with a specialization in clinical or rehabilitative services in audiology~~ be
3 qualified.

4 NOTE: Authority cited: Section 56100(a) and (i), Education Code; ~~20 U.S.C. 1414(e) (2)~~
5 ~~(B); and 34 C.F.R. 300.600~~. Reference: Section 56363~~(b)(2)~~, Education Code; and 34
6 C.F.R. ~~300.13(b)(1)~~ Sections 300.34 and 300.156(b)(1).

7
8 **§ 3051.3. Orientation and Mobility Instruction.**

9 (a) Orientation and Mobility instruction may include:

10 (1) Specialized instruction for individuals in orientation and mobility techniques.

11 (2) Consultative services to other educators and parents regarding instructional
12 planning and implementation of the IEP ~~individualized education program~~ relative to the
13 development of orientation and mobility skills and independent living skills.

14 (b) ~~The person~~ Individuals providing orientation and mobility instruction and services
15 shall ~~hold a credential as an orientation and mobility specialist~~ be qualified.

16 NOTE: Authority cited: Section 56100(a) and (i), Education Code; ~~20 U.S.C. 1414(e) (2)~~
17 ~~(B); and 34 C.F.R. 300.600~~. Reference: Section 56363, Education Code; and 34 C.F.R.
18 Sections 300.34 and 300.156(b)(1).

19
20 **§ 3051.4. Instruction in the Home or Hospital.**

21 . . .

22 (e) Instruction in the home or hospital shall be provided by a regular class teacher,
23 the special class teacher or the resource specialist teacher, if the teacher or specialist is
24 competent to provide such instruction and services and if the provision of such
25 instruction and services by the teacher or specialist is feasible. If not, the appropriate
26 ~~designated instruction and~~ related services specialist shall provide such instruction.

27 . . .

28 NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56001 and
29 56363, Education Code.

30 . . .

31 . . .

1 **§ 3051.5. Adapted Physical Education for Individuals with Exceptional Needs.**

2 . . .

3 (b) ~~The person Individuals providing instruction and services adapted physical~~
4 ~~education shall have a credential authorizing the teaching of adapted physical education~~
5 ~~as established by the Commission on Teacher Credentialing be qualified.~~

6 NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: ~~34 CFR~~
7 ~~300.307~~ Section 56363, Education Code.

8
9 **§ 3051.6. Physical and Occupational Therapy.**

10 (a) When the district, ~~special education local plan area~~ SELPA, or county office
11 contracts for the services of a physical therapist or an occupational therapist, the
12 following standards shall apply:

13 (1) Occupational or physical therapists shall provide services based upon
14 recommendation of the ~~individual education program~~ IEP team. Physical therapy and
15 occupational therapy services for infants are limited by Education Code section
16 ~~56426.6~~. Physical therapy services may not exceed the services specified in the
17 Business and Professions Code at ~~§~~section 2620. Occupational therapy services may
18 not exceed the services specified in the Business and Professions Code section
19 2570.2(k).

20 (2) The district, ~~special education local plan area~~ SELPA, or county office shall
21 assure that the therapist has available safe and appropriate equipment.

22 (b) ~~Qualifications of therapists.~~ Individuals providing physical or occupational therapy
23 shall be qualified:

24 (1) ~~The therapists shall have graduated from an accredited school.~~

25 (2) ~~A physical therapist shall be currently licensed by the Board of Medical Quality~~
26 ~~Assurance of the State of California and meet the educational standards of the Physical~~
27 ~~Therapy Examining Committee.~~

28 (3) ~~An occupational therapist shall be currently registered with the American~~
29 ~~Occupational Therapy Association.~~

30 NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section
31 ~~56363(b)(6), Education Code; and 34 C.F.R. 300.13(b) (5) and (7) and 300.600~~

1 Sections 300.34 and 300.156(b)(1).

2

3 **§ 3051.7. Vision Services.**

4 (a) Vision services ~~shall be provided by a Credentialed teacher of the visually~~
5 ~~handicapped and~~ may include:

6 . . .

7 (b) An assessment of and provision for services to visually impaired pupils may be
8 conducted by an eye specialist who has training and expertise in low vision disabilities
9 and has available the appropriate low vision aids for the purpose of assessment. The
10 eye specialist may provide consultation to the pupil, parents, teacher and other school
11 personnel as may be requested by ~~individualized education program~~ an IEP team.

12 . . .

13 (e) Individuals providing vision services shall be qualified.

14 NOTE: Authority cited: Section 56100~~(a) and (i)~~, Education Code. Reference: Sections
15 ~~44265.5 and 56363(b)(7)~~, Education Code.

16

17 **§ 3051.75. Vision Therapy.**

18 ...

19 NOTE: Authority cited: Sections 56100, Education Code; 20 U.S.C. Section
20 1414(c)(2)(B); and 34 C.F.R. Section 300.600. Reference: Section 56363, Education
21 Code.

22

23 **§ 3051.10. Psychological Services Other Than Assessment and Development of**
24 **~~the Individualized Education Program~~ IEP.**

25 Psychological services may include:

26 ~~(a) Counseling provided to an individual with exceptional needs by a credentialed or~~
27 ~~licensed psychologist or other qualified personnel.~~

28 ~~(a)(b)~~ Consultative services to parents, pupils, teachers, and other school personnel.

29 ~~(b)(c)~~ Planning and implementing a program of psychological counseling for
30 individuals with exceptional needs and parents.

31 (c) Individuals providing psychological services shall be qualified.

1 NOTE: Authority cited: Section 56100(a) and (i), Education Code; ~~20 U.S.C. 1414(c) (2)~~
2 ~~(B); and 34 C.F.R. 300.600.~~ Reference: Section 56363(b)(10), Education Code; and 34
3 C.F.R. ~~300.13 (b) (8)~~ Sections 300.34 and 300.156(b)(1).

4
5 **§ 3051.11. Parent Counseling and Training.**

6 Parent counseling and training may include:

7 . . .

8 (c) Individuals providing parent counseling and training shall be qualified.

9 NOTE: Authority cited: ~~Education Code Section 56100(a) and (i); 20 U.S.C. 1414(c) (2)~~
10 ~~(B); and 34 C.F.R. 300.600,~~ Education Code. Reference: Section 56363(b)(11),
11 Education Code; and 34 C.F.R. ~~300.13(b)(6)~~ Sections 300.34 and 300.156(b)(1).

12
13 **§ 3051.14. Specially Designed Vocational Education and Career Development.**

14 . . .

15 (h) Coordinating services with the Department of Rehabilitation and other agencies
16 as designated in the ~~individualized education program IEP.~~

17 (i) Individuals providing specially designed vocational education and career
18 development shall be qualified.

19 NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section
20 56363(b)(14), Education Code; 34 C.F.R. ~~300.14(b)(3)~~ Sections 300.34 and
21 300.156(b)(1).

22
23 **§ 3051.15. Recreation Services.**

24 . . .

25 (d) Individuals providing recreation services shall be qualified.

26 NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section
27 56363(b)(15), Education Code; and 34 C.F.R. 300.13(b)(9) Sections 300.34 and
28 300.156(b)(1).

29
30 **§ 3051.16. Specialized Services for Low-Incidence Disabilities.**

31 (a) Specialized ~~S~~services for low-incidence disabilities may include:

32 . . .

1 (b) Certification requirements for educational interpreters for deaf and hard of
2 hearing pupils.

3 ~~(1) By July 1, 2008, an educational interpreter shall be certified by the national~~
4 ~~Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID certification or~~
5 ~~equivalent, an educational interpreter shall have achieved a score of 3.0 or above on~~
6 ~~the Educational Interpreter Performance Assessment (EIPA), the Educational Sign~~
7 ~~Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National Association of~~
8 ~~the Deaf/American Consortium of Certified Interpreters (NAD/ACCI) assessment. If~~
9 ~~providing Cued Language transliteration, a transliterator shall possess~~
10 ~~Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a~~
11 ~~score of 3.0 or above on the EIPA - Cued Speech.~~

12 ~~(2) By July 1, 2008, an educational interpreter shall be certified by the national RID,~~
13 ~~or equivalent; in lieu of RID certification or equivalent, an educational interpreter must~~
14 ~~have achieved a score of 3.5 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI~~
15 ~~assessment. If providing Cued Language transliteration, a transliterator shall possess~~
16 ~~TECUnit certification, or have achieved a score of 3.5 or above on the EIPA - Cued~~
17 ~~Speech.~~

18 ~~(b)(3) By July 1, 2009, and thereafter, a~~An educational interpreter shall be certified
19 by the national Registry of Interpreters for the Deaf (RID), or equivalent; in lieu of RID
20 certification or equivalent, an educational interpreter must have achieved a score of 4.0
21 or above on the Educational Interpreter Performance Assessment (EIPA), the
22 Educational Sign Skills Evaluation-Interpreter and Receptive (ESSE-I/R), or the National
23 Association of the Deaf/American Consortium of Certified Interpreters (NAD/ACCI)
24 assessment. If providing Cued Language transliteration, a transliterator shall possess
25 Testing/Evaluation and Certification Unit (TECUnit) certification, or have achieved a
26 score of 4.0 or above on the EIPA - Cued Speech.

27 (c) An "educational interpreter" provides communication facilitation between
28 students who are deaf or hard of hearing, and others, in the general education
29 classroom and for other school related activities, including extracurricular activities, as
30 designated in a student's Individualized Educational Program (IEP).

31 NOTE: Authority cited: Section 56100(a) and (i), Education Code. Reference: Section

1 56363, Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b) (1), ~~Title 34,~~
2 Code of Federal Regulations.

3

4 **§ 3051.18. DESIGNATED INSTRUCTION AND RELATED SERVICES FOR THE**
5 **DEAF AND HARD OF HEARING.**

6 . . .

7 NOTE: Authority cited: Section 56100, Education Code. Reference: Section 56363,
8 Education Code; and 34 C.F.R. Sections 300.34 and 300.156(b)(1).

9

10 **§ 3054. Special Center. [Repealed]**

11 ~~(a) Standards. Special centers operating under this section shall:~~

12 ~~(1) Provide pupils in a special center with an educational program in accordance~~
13 ~~with their individualized education programs for at least the same length of time as the~~
14 ~~regular school day for that chronological peer group:~~

15 ~~(A) When an individual can benefit by attending a regular class(es) or other program~~
16 ~~part of the day, the amount of time shall be written in the individualized education~~
17 ~~program.~~

18 ~~(B) When the individualized education program team determines that an individual~~
19 ~~cannot function for the period of time of a regular school day, and when it is so specified~~
20 ~~in the individualized education program, an individual may be permitted to attend a~~
21 ~~special center for less time than the regular school day for that chronological peer~~
22 ~~group.~~

23 ~~(2) Be staffed by qualified personnel at a pupil/adult ratio to enable implementation~~
24 ~~of the pupils' individualized education programs.~~

25 ~~(3) Provide an emergency communication system for the health and safety of~~
26 ~~individuals with exceptional needs, such as fire, earthquake, and smog alerts.~~

27 ~~(4) Have specialized equipment and facilities to meet the needs of individuals served~~
28 ~~in the special centers.~~

29 ~~(b) Special centers should be located to promote maximum, appropriate interaction~~
30 ~~with regular educational programs.~~

31 NOTE: Authority cited: Section 56100(a) and (i), Education Code; 20 U.S.C. Section

1 1414(c)(2)(B); and 34 C.F.R. Section 300.600. References: Sections 56001 and 56364,
2 Education Code; and 34 C.F.R. Sections 300.550 - 554.

3

4 **ARTICLE 6. NONPUBLIC, NONSECTARIAN SCHOOL AND AGENCY SERVICES**

5 **§ 3060. Application for Certification.**

6 . . .

7 (c) Each nonpublic school or nonpublic agency application shall include all
8 information required by the CDE's application pursuant to Education Code sections
9 56366.1(a) and (b) and:

- 10 (1) the name and address of the nonpublic school or nonpublic agency;
- 11 (2) the name of the administrator and contact person;
- 12 (3) the telephone and FAX number and e-mail address;
- 13 (4) for nonpublic schools, the name of the teacher(s) with a credential authorizing
14 service in special education;
- 15 (5) the types of disabling conditions served;
- 16 (6) the age, gender and grade levels served;
- 17 (7) the total student capacity of the program;
- 18 (8) a brief description of the program including entrance criteria and exit criteria for
19 transition back to the public school setting, and specific services designed to address
20 student needs as listed on the student's IEP;
- 21 (9) for nonpublic schools, SBE-adopted core-curriculum (K-8) and standards-aligned
22 core-curriculum (9-12) and instructional materials used by general education students;
- 23 (10) per hour, per day or monthly fees for services provided;
- 24 (11) written directions and a street map describing the location of the nonpublic
25 school from the major freeways, roads, streets, thoroughfares and closest major airport;
- 26 (12) annual operating budget, including projected costs and revenues for each
27 agency and school program, providing documentation that demonstrates that the rates
28 to be charged are reasonable to support the operation of the agency or school
29 program;
- 30 (13) an entity-wide audit in accordance with generally accepted accounting and
31 auditing principles including each entity's costs and revenues by individual cost center;

- 1 (14) A list of all qualified staff, including subcontractors identifying their assignment
2 and qualifications in providing services to pupils;
- 3 (15) tuberculosis clearance dates for all staff;
- 4 (16) criminal record summary or criminal history clearance dates for all staff,
5 including subcontractors, who have contact with pupils;
- 6 (17) a list of contracting LEAs for whom the applicant has a contract to provide
7 school and/or related services;
- 8 (18) for out-of-state applicants, a copy of the current certification or license by the
9 state education agency to provide education services to individuals with exceptional
10 needs under the Individuals with Disabilities Education Act;
- 11 (19) a copy of the current school year calendar weekly class schedule, and daily
12 schedule with number of instructional minutes by each grade level served;
- 13 (20) a fire inspection clearance completed within the past 12 ~~twelve~~ months;
- 14 (21) For new or relocating nonpublic schools, the following documents shall be
15 available for inspection during any onsite visit made by the CDE:
- 16 (A)~~(a)~~ a copy of a business license (if applicable);
- 17 (B)~~(b)~~ a written disaster and mass casualty plan of action;
- 18 (C)~~(c)~~ a building safety inspection clearance; and
- 19 (D)~~(d)~~ a health inspection clearance.
- 20 (22) For each nonpublic school with a residential component the application shall
21 include:
- 22 (A) the name of the residential program attached to the nonpublic school;
- 23 (B) the proprietary status of the residential program;
- 24 (C) a list of all residential facilities affiliated with the nonpublic school;
- 25 (D) the total capacity of all the residential facilities affiliated with the nonpublic
26 school;
- 27 (E) the rate of care classification level (California schools only) for each residential
28 facility affiliated with the nonpublic school; and
- 29 (F) a copy of the current residential care license.
- 30 (d) The applicant shall submit a signed assurance statement that the nonpublic
31 school will maintain compliance with the following:

- 1 (1) Fair Employment Act;
- 2 (2) Drug Free Workplace Act;
- 3 (3) Section 504 of the Rehabilitation Act;
- 4 (4) Individuals with Disabilities Education Act;
- 5 (5) Civil Rights Act;
- 6 (6) Nonsectarian status;
- 7 (7) Prohibition of Corporal Punishment of Pupils under Education Code section
- 8 49001; use of Positive Behavior Interventions pursuant to Education Code section
- 9 49001 and California Code of Regulations, title 5, section 3052;

10 . . .

11 NOTE: Authority cited: Sections 33031, and 56100, ~~56366 and 56366.1~~, Education
12 Code. Reference: Sections 49001, 56366.1, and 56366.10, and 56520, Education
13 Code.

14

15 **§ 3061. Service Fees, Finance and Maintenance of Records.**

16 All certified nonpublic schools and nonpublic agencies shall:

- 17 (a) make available any books and records associated with the delivery of education
- 18 ~~and designated instruction and services~~ and related services to individuals with
- 19 exceptional needs for audit inspection or reproduction by the SSPI or the SSPI's
- 20 authorized representatives. These records shall include those management records
- 21 associated with the delivery of education and ~~designated instruction and services and~~
- 22 related services, and the costs of providing services and personnel records necessary
- 23 to ensure that staff qualifications comply with the requirements contained in anArticle 6 of
- 24 these regulations; and

25 . . .

26 NOTE: Authority cited: Sections 33031, and 56100 ~~and 56366~~, Education Code.
27 Reference: Sections 56366.1 and 56366.10, Education Code; 20 U.S.C. Section
28 1401(26); and 34 C.F.R. Section 300.34.

29

30 **§ 3064. Staff Qualifications - Special Education Instruction.**

- 31 (a) In each classroom for which the nonpublic school is seeking certification, the

1 nonpublic school shall deliver instruction utilizing personnel who possess a credential
2 authorizing the holder to deliver special education instruction according to the age range
3 and disabling conditions of individuals with exceptional needs enrolled in the nonpublic
4 school.

5 (1) During situations when instructional personnel leave the employ of the nonpublic
6 school with little or no notice, the nonpublic school may employ a person who holds a
7 Provisional Internship Permit or a Short Term Staff Permit ~~or a Temporary County~~
8 ~~Certificate for a period of time not to exceed the remainder of the school year.~~

9 . . .

10 NOTE: Authority cited: Sections 33031 and 56100, Education Code. Reference:
11 Sections 45340, 45350, 56366.1 and 56425, Education Code.

12

13 **§ 3065. Staff Qualifications - Related Services.**

14 To be eligible for certification to provide ~~designated instruction and~~ related services
15 to individuals with exceptional needs, nonpublic schools and nonpublic agencies shall
16 meet the following requirements:

17 ~~(a)(1) "Adapted physical education" means:~~

18 ~~(A) a modified general physical education program, or a specially designed physical~~
19 ~~education program in a special class; or~~

20 ~~(B) consultative services provided to pupils, parents, teachers, or other school~~
21 ~~personnel for the purpose of identifying supplementary aids and services or~~
22 ~~modifications necessary for successful participation in the general physical education~~
23 ~~program or specially designed physical education programs.~~

24 ~~(a)(2)~~ Adapted physical education, as defined in section 3051.5, shall be provided
25 only by personnel who possess a credential issued by the California Commission on
26 Teacher Credentialing that authorizes service in adapted physical education.

27 (b)(1) "Assistive technology service" means any service that directly assists an
28 individual with exceptional needs in the selection or use of an assistive technology
29 device that is educationally necessary. The term includes the evaluation of the needs of
30 an individual with exceptional needs including a functional evaluation of the individual in
31 the individual's customary environment; coordinating and using other therapies,

1 interventions, or services with assistive technology devices, such as those associated
2 with existing education programs and rehabilitation plans and programs; training or
3 technical assistance for an individual with exceptional needs or, where appropriate, the
4 family of an individual with exceptional needs or, if appropriate, that individual's family;
5 and training or technical assistance for professionals (including individuals providing
6 education and rehabilitation services), employers or other individuals who provide
7 services to, employ, or are otherwise substantially involved in the major life functions of
8 individuals with exceptional needs.

9 (2) Assistive technology services shall be provided only by personnel who possess
10 a:

11 . . .

12 (G) a certificate in assistive technology applications issued by a regionally accredited
13 post-secondary institution; or

14 (H) a credential that authorizes special education of physically impaired
15 handicapped, orthopedically impaired handicapped, or severely impaired handicapped
16 pupils.

17 ~~(c)(1) "Audiological services" means aural rehabilitation (auditory training, speech~~
18 ~~reading, language habilitation, and speech conservation) and habilitation with individual~~
19 ~~pupils in the general classroom; monitoring hearing levels, auditory behavior, and~~
20 ~~amplification for all pupils requiring personal or group amplification in the instructional~~
21 ~~setting; planning, organizing, and implementing an audiology program for individuals~~
22 ~~with auditory dysfunctions, as specified in the IEP; or consultative services regarding~~
23 ~~test finding, amplification needs and equipment, otological referrals, home training~~
24 ~~programs, acoustic treatment of rooms, and coordination of educational services to~~
25 ~~hearing-impaired individuals.~~

26 ~~(c)(2) Audiological services, as defined in section 3051.2, shall be provided only by~~
27 ~~personnel who possess:~~

28 ~~(1)(A) a license in Audiology issued by a licensing agency within the Department of~~
29 ~~Consumer Affairs; or~~

30 ~~(2)(B) a credential authorizing audiology services.~~

31 . . .

1 (e) To be eligible for certification to provide behavior intervention, including
2 implementation of behavior ~~modification~~ intervention plans, but not including
3 development or modification of behavior intervention plans, a nonpublic school or
4 agency shall deliver those services utilizing personnel who:

5 . . .

6 ~~(f)(1) "Counseling and guidance" means educational counseling in which the pupil is~~
7 ~~assisted in planning and implementing his or her immediate and long-range educational~~
8 ~~program; career counseling in which the pupil is assisted in assessing his or her~~
9 ~~aptitudes, abilities, and interests in order to make realistic career decisions; personal~~
10 ~~counseling in which the pupil is helped to develop his or her ability to function with social~~
11 ~~and personal responsibility; or counseling with parents and staff members on learning~~
12 ~~problems and guidance programs for pupils.~~

13 ~~(f)(2)~~ Counseling and guidance, as defined in section 3051.9, shall be provided only
14 by personnel who possess a:

15 ~~(1)(A)~~ license as a Marriage and Family Therapist, or Marriage, and Family Intern
16 under supervision of either a Marriage and Family Therapist, licensed Clinical Social
17 Worker, licensed Psychologist, or a Physician who is certified in psychiatry by either the
18 Medical Board of California, the Board of Behavioral Sciences, or the Board of
19 Psychology, within the Department of Consumer Affairs; or

20 ~~(2)(B)~~ license as a Clinical Social Worker, or Associate Clinical Social Worker under
21 supervision of either a licensed Clinical Social Worker or a licensed Mental Health
22 Professional by the Board of Behavioral Sciences, within the Department of Consumer
23 Affairs; or

24 ~~(3)(C)~~ license as an Educational Psychologist issued by a licensing agency within
25 the Department of Consumer Affairs; or

26 ~~(4)(D)~~ license in psychology, or who are working under supervision of a licensed
27 psychologist, both regulated by the Board of Psychology, within the Department of
28 Consumer Affairs; or

29 ~~(5)(E)~~ pupil personnel services credential, which authorizes school counseling or
30 school psychology.

31 ~~(g)(1) "Early education programs for children with disabilities" means the program~~

1 ~~and services specified by Education Code, part 30, section 56425 et seq.~~

2 ~~(g)(2) Early education programs for children with disabilities, as defined in Education~~
3 ~~Code section 56426, shall be provided only by personnel who meet the appropriate~~
4 ~~personnel qualifications set forth in this article and comply with all other requirements of~~
5 ~~Education Code, chapter 4.4 commencing with section 56425 56426.2.~~

6 (h) An "educational interpreter" provides communication facilitation between
7 students who are deaf or hard of hearing, and others, in the general education
8 classroom and for other school related activities, including extracurricular activities, as
9 designated in a student's IEP.

10 ~~(1) Interpreters for deaf and hard of hearing pupils shall meet the following~~
11 ~~qualification standards:~~

12 ~~(A) By July 1, 2008, an educational interpreter shall be certified by the national RID,~~
13 ~~or equivalent; in lieu of RID certification or equivalent, an educational interpreter shall~~
14 ~~have achieved a score of 3.0 or above on the EIPA, the ESSE-I/R, or the NAD/ACCI~~
15 ~~assessment. If providing Cued Language transliteration, a transliterator shall possess~~
16 ~~TECUnit certification, or have achieved a score of 3.0 or above on the EIPA - Cued~~
17 ~~Speech.~~

18 ~~(1)(B) By July 1, 2009, and thereafter, a~~An educational interpreter shall be certified
19 by the national RID, or equivalent; in lieu of RID certification or equivalent, an
20 educational interpreter shall have achieved a score of 4.0 or above on the EIPA, the
21 ESSE-I/R, or the NAD/ACCI assessment. If providing Cued Language transliteration, a
22 transliterator shall possess TECUnit certification, or have achieved a score of 4.0 or
23 above on the EIPA - Cued Speech.

24 ~~(i)(1) "Health and nursing services" means:~~

25 ~~(A) managing the child's health problems on the school site;~~

26 ~~(B) consulting with pupils, parents, teachers, and other personnel;~~

27 ~~(C) group and individual counseling with parents and pupils regarding health~~
28 ~~problems;~~

29 ~~(D) maintaining communication with health agencies providing care to individuals~~
30 ~~with disabilities; or~~

31 ~~(E) providing services by qualified personnel.~~

1 ~~(i)(2)~~ Health and nursing services, as defined in section 3051.12, shall be provided
2 only by personnel who possess:

3 ~~(1)(A)~~ a license as a Registered Nurse, issued by a licensing agency within the
4 Department of Consumer Affairs; or

5 ~~(2)(B)~~ a license as a Vocational Nurse, issued by a licensing agency within the
6 Department of Consumer Affairs, under the supervision of a licensed Registered Nurse;
7 or

8 ~~(3)(C)~~ a school nurse credential; or

9 ~~(4)(D)~~ demonstrated competence in cardio-pulmonary resuscitation, current
10 knowledge of community emergency medical resources, and skill in the use of
11 equipment and performance of techniques necessary to provide specialized physical
12 health care services for individuals with exceptional needs. In addition, possession of
13 training in these procedures to a level of competence and safety that meets the
14 objectives of the training as provided by the school nurse, public health nurse, licensed
15 physician and surgeon, or other training programs. "Demonstrated competence in
16 cardio-pulmonary resuscitation" means possession of a current valid certificate from an
17 approved program; or

18 ~~(5)(E)~~ a valid license, certificate, or registration appropriate to the health service to
19 be designated, issued by the California agency authorized by law to license, certificate,
20 or register persons to practice health service in California.

21 ~~(j)(1) "Home and hospital services" means instruction delivered to children with~~
22 ~~disabilities, individually, in small groups, or by teleclass, whose medical condition such~~
23 ~~as those related to surgery, accidents, short-term illness or medical treatment for a~~
24 ~~chronic illness prevents the individual from attending school.~~

25 ~~(i)(2)~~ Home or hospital instruction, as defined in section 3051.4, shall be provided
26 only by personnel who possess a credential issued by the California Commission on
27 Teacher Credentialing authorizing the holder to deliver special education instruction
28 according to age range and disabling condition of the individual(s).

29 ~~(k)(1) "Language and speech development and remediation" means screening,~~
30 ~~assessment, IEP development and direct speech and language services delivered to~~
31 ~~children with disabilities who demonstrate difficulty understanding or using spoken~~

1 language to such an extent that it adversely affects their educational performance and
2 cannot be corrected without special education and related services.

3 ~~(k)(2)~~ Language and speech development and remediation, as defined in section
4 3051.1, shall be provided only by personnel who possess:

5 ~~(1)(A)~~ a license in Speech-Language Pathology issued by a licensing agency within
6 the Department of Consumer Affairs; or

7 ~~(2)(B)~~ a credential authorizing language or speech services.

8 (A) Services provided by a Speech-Language Pathology Assistant shall be
9 supervised by a Speech-Language Pathologist as defined in Business and Professions
10 Code section 2530.2(i).

11 ~~(l)(1)~~ "Occupational therapy" means the use of various treatment modalities
12 including self-help skills, language and educational techniques as well as sensory motor
13 integration, physical restoration methods, and pre-vocation exploration to facilitate
14 physical and psychosocial growth and development.

15 (l) Music therapy shall be provided only by personnel who hold a Music Therapist –
16 Board Certified credential from the Certification Board for Music Therapists (CBMT)
17 upon the completion of all academic and clinical training requirements, and after
18 successfully passing the CBMT National Board Certification Examination.

19 ~~(m)(2)~~ Occupational therapy, as defined in section 3051.6, shall be provided only by
20 personnel who possess a license in occupational therapy issued by a licensing agency
21 within the Department of Consumer Affairs. Services provided by a Certified
22 Occupational Therapist Assistant (COTA) shall be supervised by a registered
23 occupational therapist in accordance with professional standards outlined by the
24 American Occupational Therapy Association.

25 ~~(m)(1)~~ "Orientation and mobility instruction" means specialized instruction for
26 individuals in orientation and mobility techniques or consultative services to other
27 educators and parents regarding instructional planning and implementation of the IEP
28 relative to the development of orientation and mobility skills and independent living
29 skills.

30 ~~(n)(2)~~ Orientation and mobility instruction, as defined in section 3051.3, shall be
31 provided only by personnel who possess a credential that authorizes services in

1 orientation and mobility instruction.

2 ~~(n)(1) "Parent counseling and training" means assisting parents in understanding the~~
3 ~~special needs of their child and providing parents with information about child~~
4 ~~development.~~

5 ~~(o)(2) Parent counseling and training, as defined in section 3051.11, shall be~~
6 provided only by personnel who possess a:

7 ~~(1)(A) credential that authorizes special education instruction; or~~

8 ~~(2)(B) credential that authorizes health and nursing services; or~~

9 ~~(3)(C) license as a Marriage and Family Therapist, or Marriage, and Family Intern~~
10 ~~under supervision of either a Marriage and Family Therapist, licensed Clinical Social~~
11 ~~Worker, licensed Psychologist, or a Physician who is certified in psychiatry by either the~~
12 ~~Medical Board of California, the Board of Behavioral Sciences, or the Board of~~
13 ~~Psychology, within the Department of Consumer Affairs; or~~

14 ~~(4)(D) license as a Clinical Social Worker, or Associate Clinical Social Worker under~~
15 ~~supervision of either a licensed Clinical Social Worker or a licensed Mental Health~~
16 ~~Professional by the Board of Behavioral Sciences, within the Department of Consumer~~
17 ~~Affairs; or~~

18 ~~(5)(E) license as an Educational Psychologist, issued by a licensing agency within~~
19 ~~the Department of Consumer Affairs; or~~

20 ~~(6)(F) license as a psychologist, or who are working under the supervision of a~~
21 ~~licensed psychologist, both regulated by the Board of Psychology, within the~~
22 ~~Department of Consumer Affairs; or~~

23 ~~(7)(G) pupil personnel services credential that authorizes school counseling or~~
24 ~~school psychology or school social work.~~

25 ~~(o)(1) "Physical therapy" means the:~~

26 ~~(A) administration of active, passive, and resistive therapeutic exercises and local or~~
27 ~~general massage, muscle training and corrective exercises and coordination work;~~

28 ~~(B) administration of hydrotherapy treatments;~~

29 ~~(C) assistance in administering various types of electrotherapy including ultraviolet,~~
30 ~~infrared, diathermy and inductothermy;~~

31 ~~(D) teaching of parents of hospitalized pupils exercises which are to be continued at~~

1 ~~home and interpret to them the significance of physical therapy services; and~~

2 ~~(E) instruction in walking, standing, balance, use of crutches, cane, or walker and in~~
3 ~~the care of braces and artificial limbs.~~

4 ~~(p)(2)~~ Physical therapy, as defined in section 3051.6, shall be provided only by
5 personnel who possess a valid license in Physical Therapy issued by a licensing
6 agency within the Department of Consumer Affairs.

7 ~~(q)(p)~~(1) "Psychological services" means:

8 . . .

9 ~~(q)(1)~~ "Recreation services" means:

10 ~~(A) therapeutic recreation and specialized instructional programs designed to assist~~
11 ~~pupils to become as independent as possible in leisure activities, and when possible~~
12 ~~and appropriate, facilitate the pupil's integration into general recreation programs;~~

13 ~~(B) recreation programs in schools and the community which are those programs~~
14 ~~that emphasize the use of leisure activity in the teaching of academic, social, and daily~~
15 ~~living skills and the provision of nonacademic and extracurricular leisure activities and~~
16 ~~the utilization of community recreation programs and facilities; or~~

17 ~~(C) leisure education programs which are those specific programs designed to~~
18 ~~prepare the pupil for optimum independent participation in appropriate leisure activities,~~
19 ~~and developing awareness of personal and community leisure resources.~~

20 ~~(r)(2)~~ Recreation services, as defined in section 3051.15, shall be provided only by
21 personnel who possess a:

22 ~~(1)(A)~~ certificate, issued by the California Board of Recreation and Park Certification;
23 or

24 ~~(2)(B)~~ certificate issued by the National Council for Therapeutic Recreation; or

25 ~~(3)(C)~~ the National Recreation and Park Association, authorizing services in
26 recreation or therapeutic recreation.

27 ~~(r)(1)~~ "Social worker services" means:

28 ~~(A) individual and group counseling with the individual and his or her immediate~~
29 ~~family;~~

30 ~~(B) consultation with pupils, parents, teachers, and other personnel regarding the~~
31 ~~effects of family and other social factors on the learning and developmental~~

1 requirements of children with disabilities; or

2 ~~(C) developing a network of community resources, making appropriate referral and~~
3 ~~maintaining liaison relationships among the school, the pupil, the family, and the various~~
4 ~~agencies providing social income maintenance, employment development, mental~~
5 ~~health, or other developmental services.~~

6 ~~(s)(2)~~ Social worker services, as defined in section 3051.13, shall be provided only
7 by personnel who possess a:

8 ~~(1)(A)~~ license as a Clinical Social Worker, or Associate Clinical Social Worker under
9 supervision of either a licensed Clinical Social Worker or a licensed Mental Health
10 Professional by the Board of Behavioral Sciences, within the Department of Consumer
11 Affairs; or

12 ~~(2)(B)~~ license as a Marriage and Family Therapist, or Marriage, and Family Intern
13 under supervision of either a Marriage and Family Therapist, licensed Clinical Social
14 Worker, licensed Psychologist, or a Physician who is certified in psychiatry by either the
15 Medical Board of California, the Board of Behavioral Sciences, or the Board of
16 Psychology, within the Department of Consumer Affairs; or

17 ~~(3)(C)~~ credential authorizing school social work.

18 ~~(s)(1) "Specialized driver training instruction" means instruction to children with~~
19 ~~disabilities to supplement the general driver training program.~~

20 ~~(t)(2)~~ Specialized driver education and driver training instruction, as defined in
21 section 3051.8, shall be provided only by personnel who possess a credential that
22 authorizes service in driver education and driver training.

23 ~~(t)(1) "Specially designed vocational education and career development" means:~~

24 ~~(A) providing prevocational programs and assessing work-related skills, interests,~~
25 ~~aptitudes, and attitudes;~~

26 ~~(B) coordinating and modifying the general vocational education program;~~

27 ~~(C) assisting pupils in developing attitudes, self-confidence, and vocational~~
28 ~~competencies to locate, secure, and retain employment in the community or shelter~~
29 ~~environment, and to enable such individuals to become participating members of the~~
30 ~~community;~~

31 ~~(D) establishing work training programs within the school and community;~~

1 ~~(E) assisting in job placement;~~

2 ~~(F) instructing job trainers and employers as to the unique needs of the individuals;~~

3 ~~(G) maintaining regularly scheduled contract with all work stations and job-site~~

4 ~~trainers; or~~

5 ~~(H) coordinating services with the Department of Rehabilitation, the Employment~~

6 ~~Development Department and other agencies as designated in the IEP.~~

7 ~~(u)(2) Specially designed vocation education and career development, as defined in~~

8 ~~section 3051.14, shall be provided only by personnel who possess a:~~

9 ~~(1)(A) adult education credential with a career development authorization; or~~

10 ~~(2)(B) credential that authorizes instruction in special education or vocational~~

11 ~~education; or~~

12 ~~(3)(C) pupil personnel services credential that authorizes school counseling.~~

13 ~~(u)(1) "Specialized services for low-incidence disabilities" means:~~

14 ~~(A) specially designed instruction related to the unique needs of pupils with low-~~

15 ~~incidence disabilities; or~~

16 ~~(B) specialized services related to the unique needs of individuals with low-incidence~~

17 ~~disabilities.~~

18 ~~(v)(2) Specialized services for pupils with low-incidence disabilities, as defined in~~

19 ~~section 3051.16, shall be provided only by personnel who possess a credential that~~

20 ~~authorizes services in special education or clinical or rehabilitation services in the~~

21 ~~appropriate area of disability.~~

22 ~~(w)(v) Transcribers for visually impaired pupils shall have a certificate issued by the~~

23 ~~Library of Congress as a Braille Transcriber.~~

24 ~~(w)(1) "Vision services" means:~~

25 ~~(A) adaptations in curriculum, media, and the environment, as well as instruction in~~

26 ~~special skills; or~~

27 ~~(B) consultative services to pupils, parents, teachers, and other school personnel.~~

28 ~~(x)(2) Vision services, as defined in section 3051.7, shall be provided only by~~

29 ~~personnel who possess:~~

30 ~~(1)(A) a license as an Optometrist, Ophthalmologist, Physician or Surgeon, issued~~

31 ~~by a licensing agency within the Department of Consumer Affairs and authorizing the~~

1 licensee to provide the services rendered, or

2 ~~(2)(B)~~ a valid credential authorizing vision instruction or services.

3 ~~(y)(*)~~ Other related services not identified in this section shall only be provided by
4 staff who possess a:

5 . . .

6 NOTE: Authority cited: Sections 33031, and 56100 ~~and 56366~~, Education Code.

7 Reference: Sections 2530, 2570.2, 2620, 2903, 2905, 4980.02, 4989.14, and 4996.9
8 ~~and 47505.2~~, Business and Professions Code; Sections 49422, and 56363, 56366.1,
9 56426, 56426.1, and 56430, Education Code; 20 U.S.C. Section 1401; and 34 C.F.R.
10 Sections 300.18, 300.34 and 300.156(b)(1).

11

12 **§ 3068. Appeals and Waivers Information.**

13 . . .

14 ~~(e) LEAs and nonpublic schools and agencies may request the SSPI to waive~~
15 ~~Education Code sections 56365, 56366, 56366.3 and 56366.6. Such petitions shall be~~
16 ~~made in accordance with the provisions of Education Code section 56366.2 and shall~~
17 ~~be necessary in order to provide services to individuals with exceptional needs~~
18 ~~consistent with their IEP.~~

19 NOTE: Authority cited: Sections 33031, and 56100 ~~and 56366~~, Education Code.

20 Reference: Sections ~~56404,~~ 56366.2 and 56366.6, Education Code.

21

22 **Article 7. Procedural Safeguards**

23 **§ 3083. Service Notice.**

24 Notwithstanding Government Code section 11440.20 of the APA, service of notice,
25 motions, or other writings pertaining to special education due process hearing
26 procedures to the California ~~Special Education Hearing Office~~ public agency that is
27 responsible for conducting due process hearings and any other person or entity are
28 subject to the following provisions:

29 (a) The notice, motion, or writing shall be delivered personally or sent by mail or
30 other means to the ~~Hearing Office~~ public agency that is responsible for conducting due
31 process hearings, person, or entity at their last known address and, if the person or

1 entity is a party with an attorney or other authorized representative of record in the
2 proceeding, to the party's attorney or other authorized representative.

3 (b) Unless a provision specifies the form of mail, service or notice by mail may be by
4 first-class mail, registered mail, or certified mail, by mail delivery service, by facsimile
5 transmission if complete and without error, or by other electronic means as provided by
6 regulation, in the discretion of the sender.

7 (c) Service must be made by a method that ensures receipt by all parties and the
8 Hearing Office public agency that is responsible for conducting due process hearings in
9 a comparable and timely manner.

10 NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56500,
11 56501, 56502, 56503, 56504, 56505, 56506 and 56507, Education Code; Section
12 11440.20, Government Code; 20 U.S.C. Sections 1415(b)(2) and (c); and 34 C.F.R.
13 Sections 300.507, 300.508, 300.509, 300.510, 300.511 and 300.512.

14

15 **§ 3084. Ex Parte Communications.**

16 (a) Notwithstanding Government Code sections 11425.10(a)(8), 11430.20, and
17 11430.30 of the APA, while special education due process hearing proceedings are
18 pending, there shall be no communication, direct or indirect, regarding any issue in the
19 proceeding, to a hearing officer from an employee or representative of a party or from
20 an interested person unless the communication is made on the record at the hearing.

21 (b) A proceeding is pending from the date of receipt by the California ~~Special~~
22 Education Hearing Office public agency that is responsible for conducting due process
23 hearings of the request for hearing.

24 . . .

25 NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56500,
26 56501, 56502, 56503, 56504, 56505, 56506 and 56507, Education Code; Sections
27 11425.10, 11430.10-11430.30, 11430.50 and 11430.60, Government Code; 20 U.S.C.
28 Sections 1415(b)(2) and (c); and 34 C.F.R. Sections 300.507, 300.508, 300.509,
29 300.510, 300.511 and 300.512.

30

31

1 **§ 3088. Sanctions.**

2 . . .

3 (e) The presiding hearing officer may, with approval from the General Counsel of the
4 CDE, order a party, the party's attorney or other authorized representative, or both, to
5 pay reasonable expenses, including costs of personnel, to the California ~~Special~~
6 ~~Education Hearing Office~~ public agency that is responsible for conducting due process
7 hearings for the reasons set forth in Government Code section 11455.30(a).

8 NOTE: Authority cited: Section 56100, Education Code. Reference: Sections 56500,
9 56501, 56502, 56503, 56504, 56505, 56506 and 56507, Education Code; Sections
10 11455.10, 11455.20 and 11455.30, Government Code; 20 U.S.C. Sections 1415(b)(2)
11 and (c); and 34 C.F.R. Section 300.511.

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31 3-28-13 [California Department of Education]

INITIAL STATEMENT OF REASONS

Special Education

INTRODUCTION

Current statutes address, in part, the requirements for the administration of the special education program. These proposed regulations are necessary to update and clarify rules governing the special education program in California. Many sections of these regulations have not been updated since the State Board of Education (SBE) adopted substantive changes on December 11, 1987, which became operative on April 20, 1988. During this time, there have been numerous statutory changes which have made some of these regulations inoperable, without merit, or contrary to current statutes. In addition, the references for many of the current regulations are outdated since there have been numerous State code changes as well as code changes to Federal statutes and regulations. Throughout these regulations, there are grammatical, punctuation, and spelling changes. To keep the public and interested parties informed of the current regulations governing the special education program in California, it is necessary to submit this proposal, consistent with the Administrative Procedures Act (APA), to initiate the rulemaking process.

The proposed regulations reflect changes in California statute affecting Part 30 of the Education Code and the Individuals with Disabilities Education Act (IDEA).

The intent of these proposed regulations is to ensure conformity with the federal IDEA (20 United States Code [U.S.C.] sections 1400 et seq.), its implementing regulations (Section 300.1 et seq. of Title 34 of the Code of Federal Regulations [C.F.R.]), Part 30 of the Education Code and its implementing regulations (section 3001 et seq. of Title 5 of the California Code of Regulations). These proposed regulations are supplemental to, and in the context of, federal and state laws and regulations relating to the provisions of special education and related services by private schools and agencies.

PROBLEM AGENCY INTENDS TO ADDRESS

Many regulations in California Code of Regulations, title 5, sections 3001-3088 have not been updated for consistency with state statutes and federal statutes and regulations since the late 1980s. Since that time, many changes have occurred both in the state and the federal requirements. As a result, conflicts between the Title 5 regulations and other germane bodies of law produce confusion for people who are involved in providing special education and related services. By amending the regulations, the California Department of Education (CDE) proposes to delete regulations that no longer have statutory authority, to update regulations that no longer conform in part to state and federal requirements, and to amend the authorities and references cited to make them useful once more.

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The benefits of updating the regulations found in California Code of Regulations, title 5,

sections 3001-3088, are conformity with state statutes, federal statutes, and federal regulations. Such conformity will help bring consistency in the provision of special education and related services to children with disabilities and reduce confusion about the intent of the law among educators and service providers. Such clarity and consistency also mitigates the potential for costly due process hearings and civil suits resulting from inadvertent failures to adhere to current code.

SPECIFIC PURPOSE OF EACH SECTION – GOV. CODE SECTION 11346.2(b)(1)

General changes were made for consistency to the regulations as follows:

- replace “local educational agency” with “LEA;”
- replace “individualized education program” with “IEP;”
- replace “special education local plan area” with “SELPA;”
- replace “Department” with “CDE;”
- replace “Superintendent” with “State Superintendent of Public Instruction” or “SSPI;”
- replace “subsection” with “subdivision;”
- replace “State Board of Education” with “SBE;” and
- grammatical, punctuation and/or renumbering edits.

The specific purpose of each amendment, adoption or repeal, and the rationale for the determination that each amendment, adoption or repeal 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, adoption or repeal is intended to address, is as follows:

SECTION 3001. DEFINITIONS

The provisions of this section establish definitions for the terms used by the CDE. This section currently exists as part of California Code of Regulations, title 5, Division 1, Chapter 3. References to the Education Code and the U.S.C. have been amended to accurately reflect definitions that can be found in statute and, therefore, need not be repeated in regulations. The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Due to previous revisions to the C.F.R., a reference change has been made to identify 34 C.F.R. sections 300.4 through 300.45 as federal definitions related to the special education program. Specific Education Code sections have been deleted from the reference for this section as the corresponding subdivisions (terms defined in law) have been deleted from these regulations.

Subdivision (g) is amended to add the words “where applicable, benchmarks or short-term” before the word “objectives.” This is necessary due to a change in federal law. The reference for this section has been changed to include 34 C.F.R. section 300.320 as a basis for this change.

Former subdivision (h) is deleted because the term “State Board of Education” is already defined in Education Code section 56021.

Subdivision (n) (formerly subdivision (q)) is amended to delete a reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

Former subdivision (o) is deleted because the term “feasible” is no longer found in Education Code section 56363(a). This statute was amended via Assembly Bill 1665 (Chapter 653, Statutes of 2005).

Former subdivision (p) is deleted because the term “free appropriate public education” is already defined in 34 C.F.R. section 300.17.

Former subdivision (u) is deleted because the term “local educational agency” is already defined in Education Code section 56026.3.

Subdivision (u) (formerly subdivision (y)) is amended to change the word “spoken” to “used” to incorporate the use of sign language.

Subdivision (v) (formerly subdivision (z)) is amended to change the word “in” to “or” because it more accurately conveys the meaning of this regulation.

Former subdivision (aa) is deleted because the term “related services” is already defined in 34 C.F.R. section 300.34 and Education Code section 56363.

Former subdivision (ac) is deleted because the term “special education” is already defined in Education Code section 56031.

Subdivision (x) (formerly subdivision (ad)) is amended to add clarifying language to the definition of “specialized physical health care services.” This amendment is necessary in order to be consistent with the terminology for “specialized health care services” as defined in Education Code section 49423.5.

SECTION 3023. ASSESSMENT AND REASSESSMENT

Subdivision (a) is amended to add “and reassessments.” This amendment is necessary in order to be consistent with Education Code section 56381, which adds the provision for reassessments of special education students if either the local educational agency (LEA) or parent requests a re-evaluation of the pupil based upon academic achievement and functional performance. The current regulation is limited to initial assessments related to a determination of special education eligibility and services.

Subdivision (b) is amended to replace “handicapping” with “disabling.” This amendment is necessary because this term represents current word usage in federal law and regulations.

The authority for this regulation has been amended to add Education Code section 56381, which addresses special education reassessments. Sections 300.304, 300.305, and 300.310 of the C.F.R. are added as references because these federal regulations singularly address special education assessment and reassessment requirements. Title 34 C.F.R. sections 300.530 and 300.532 are deleted because they refer to special education student discipline procedures and section 300.543 no longer applies as a reference citation.

SECTION 3025. ASSESSMENT OPTION: REFERRAL TO STATE SCHOOLS FOR FURTHER ASSESSMENT

Subdivisions (a) and (b) are amended to update the reference from Diagnostic “Schools” to Diagnostic “Centers.” This amendment is necessary in order to be consistent with Education Code section 59200.

SECTION 3029. CONTRACTING FOR INDIVIDUALLY ADMINISTERED TESTS OF PSYCHOLOGICAL FUNCTIONING DUE TO THE UNAVAILABILITY OF SCHOOL PSYCHOLOGISTS

Subdivision (d) is deleted because subdivision (b) specifies that LEAs may contract with “qualified personnel” to provide written student assessment reports. Personnel qualified to administer psychological evaluations in the State of California are not limited to Educational Psychologists. This amendment is necessary because “Qualified personnel” may include other disciplines and are governed by the Commission on Teacher Credentialing (CTC) and the California Department of Consumer Affairs (CDCA).

Section 56320(f) in the authority section is deleted because it provides a list of areas of suspected disability for which students may be assessed but does not pertain to contracting for psychological assessment.

SECTION 3030. ELIGIBILITY CRITERIA

Proposed subdivision (a) is amended to change the term “pupil” to “child” for consistency with federal terminology governing education programs. Additional amendments are necessary because of duplication of language found in the Education Code relative to the use of single scores.

The reference to Education Code section 56341(d) is deleted from this regulation because it is limited to an invitation for the special education student to attend the IEP team meeting to discuss postsecondary goals and transition.

Education Code section 56220(a) is deleted as a reference because Education Code section 56341(b) is the correct citation for the makeup of the individualized education program (IEP) team.

Former subdivisions (a) and (b) have been renumbered to proposed section 3030(b)(5) and (b)(2) respectively, for consistency with the rewriting of proposed subdivision 3030(b).

Proposed subdivision (b) is added to reflect current special education eligibility requirements pursuant to 20 U.S.C. sections 1401(a)(3), 1414(a) and (b), and 34 C.F.R. sections 300.8, 300.300, 300.301, 300.304, 300.305, 300.306, 300.307, 300.308, 300.309, 300.311. The amendments to proposed section 3030(b)(10) are necessary to update and reflect federal regulatory requirements for determining a student's eligibility for special education under the criteria for "specific learning disabilities."

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Section 1401(a)(3) of 20 U.S.C. defines children with disabilities and this reference has been added to this regulation; section 1401(a)(15) defines Individual Family Services Plan (IFSP) and is not specifically relevant to the specific purpose of this regulation; and sections 1414(a) and (b) outline the procedures related to evaluations to receive special education services under the IDEA.

Former subdivision (c) is renumbered to proposed section 3030(b)(11).

Former subdivisions (d) through (j) have been deleted, renumbered and incorporated throughout proposed section 3030(b).

SECTION 3031. ADDITIONAL ELIGIBILITY CRITERIA FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS – AGE BIRTH TO YOUNGER THAN THREE YEARS

Subdivision (a) is amended as a result of the Budget Act of 2009 that amended the eligibility criteria for Early Start and California Part C of the IDEA. This created a situation where there were two distinct criteria for determining eligibility for children aged birth to younger than three years served by Early Start through California's regional center system for persons with developmental disabilities and for those same-aged children served by LEAs. This misalignment of eligibility criterion has caused much confusion in the early intervention field in providing services to young children aged birth to younger than three years.

The new eligibility criteria for the Early Start Program allows infants and toddlers from birth to 36 months to receive early intervention services if through documented evaluation and assessment they meet one of the criteria listed below:

1. Have a developmental delay at or below 50 percent of their chronological age level in either cognitive, communication, social or emotional, adaptive, or physical

and motor development, including vision and hearing, or at least a 33 percent delay in two or more areas of development; or

2. Have an established risk condition of known etiology, with a high probability of resulting in delayed development.

Under current regulations, there is an eligibility gap between the Early Start Program under Part C of the IDEA (33 percent delay in two areas) and the section 3031(a)(2)(B) criteria (25 percent delay in two areas). There are a number of young children who have been found eligible for early start by LEAs using the 25 percent standard. Because these children have already been found eligible for Early Start, the local educational agencies must continue to serve them and provide them with all of the protections of the IDEA. If the LEAs wish to exit these children, they would have to find them ineligible and conduct an exit Individualized Family Service Plan (IFSP). There is also the question of the eligibility of new children. With the standard of 25 percent in the current section 3031, it is conceivable that children could be found eligible for services from LEAs, but without eligibility for Early Start. These children and their families would not have the entitlements and protections of the IDEA, Part C, or of the Education Code because all references to processes and protections in Part 30 were aligned to Part C in 1993. In order to correct these issues, new language for section 3031 is proposed to align the eligibility percentages in the two sets of regulations.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Section 1401(a)(3) of 20 U.S.C. defines a child with a disability, and this reference has been added to this regulation; Section 1401(a)(15) defines the IFSP and is not specifically relevant to the specific purpose of this regulation; and Sections 1414(a) and (b) outline the procedures related to evaluations to receive special education services under the IDEA. The reference to 34 C.F.R. section 1432(a)(5) has been changed to section 1432(5) as this is the correct citation regarding services to infants and toddlers with disabilities. The reference to 34 C.F.R. section 300.5 has been deleted as this section defines an assistive technology device and sections 300.25 and 303.21 are added as references because they define an infant or a toddler with a disability. References to Education Code sections 56030.5, 56333, and 56337 have been deleted because these statutes address the definition of "severely disabled;" special education eligibility for language or speech disorders; and special education eligibility under specific learning disabilities, respectively.

SECTION 3040. INDIVIDUALIZED EDUCATION PROGRAM IMPLEMENTATION

Subdivision (a) is deleted because this language is already found in Education Code section 56344(b).

Subdivision (b) is deleted because this language is already found in Education Code section 56341.5(j).

Subdivision (c) is deleted because this language is already found in Education Code section 56345.

SECTION 3043. EXTENDED SCHOOL YEAR

Added language in this section to reference 34 C.F.R. section 300.106 is necessary to ensure that extended school year services are being provided consistent with federal rules. The terms “handicaps” and “handicapping” have been changed to “disabilities” and “disabling” to reflect the use of current terminology. In subdivision (d)(1), the reference to special “centers” is deleted to reflect that authority for these centers was removed from statute when Education Code section 56364.2 – which pertained to “Special Centers” – was repealed by Senate Bill 1686 in 1998. Assembly Bill 1818 of 2002 further removed reference to Special Centers from Education Code section 56361, the continuum of program options. The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Reference to Education Code section 56345(b)(3) is added to more accurately describe extended school year services to students with disabilities consistent with 34 C.F.R. section 300.106. Section 300.106 of 34 C.F.R. is added as a reference because this section is the federal rule governing extended school year services and section 300.346 has been deleted.

SECTION 3051. STANDARDS FOR RELATED SERVICES

The title of this regulation and subdivisions (a)(1) and (a)(2) are amended to delete a reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

Former subdivision (a)(3) is deleted because the reference to sections 3060 - 3065 specifically relates to nonpublic school and agency certification requirements. Related Services, in addition to nonpublic schools and agencies, are also provided by LEAs and public agencies. The entities are not subject to nonpublic school and agency certification requirements and have personnel boards that establish their own minimum employee qualifications.

Subdivision (a)(3) (formerly (a)(4)) is amended to 1) delete a reference to “designated instruction and services” because Education Code section 56363 states that this term means related services, and 2) to add language to provide the necessary guidance that entities or individuals providing related services must meet federal regulatory personnel qualifications.

Subdivision (a)(3)(C) is amended to change the “State Departments of Health Services or Mental Health” to “State Departments of Health Care Services or State Hospitals.” This is necessary due to a state reorganization. The addition of the word “health” is inserted after the word “mental.” This amendment is necessary in order to accurately describe mental health agencies.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.1. LANGUAGE, SPEECH AND HEARING DEVELOPMENT AND REMEDIATION

Subdivision (a) is amended to eliminate any reference to personnel qualifications and limits the language to define this service category. While personnel must be qualified to provide language, speech and hearing services, minimum qualifications are governed by the local educational or public educational agency consistent with professional requirements established for this service by the CDCA or the CTC.

Subdivision (c) is amended to replace the word “credentialed” with “qualified” because individuals in California are authorized to provide language, speech and hearing services by both the CDCA and the CTC. The words “noncertificated personnel” have been replaced with “aides” for consistency with the reference to an “aide” in the first sentence of this section.

Subdivision (d) is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide language, speech and hearing services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Education Code section 56363.3 has been added as a reference as this specifies the maximum caseload for language, speech and hearing specialists. Section 300.13(b)(12) of 34 C.F.R. has been deleted as a reference because this section provides a definition for Elementary Schools and has no subdivision. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.2. AUDIOLOGICAL SERVICES

Subdivision (a) is amended to delete the reference to 34 C.F.R. section 300.13(b)(1). This amendment is necessary because this particular section provides a definition for Elementary Schools. Section 300.34 of 34 C.F.R. is added because this rule defines and establishes personnel standards for audiological services.

Subdivision (b) is amended to replace the phrase “The person” with “Individuals” for clarification purposes. This amendment is necessary to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide audiological services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. Section 300.13(b)(1) of 34 C.F.R. has been deleted as a reference since this section provides a definition for Elementary Schools and has no subsections. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.3. ORIENTATION AND MOBILITY INSTRUCTION

Section title and subdivision (a) are amended to add the word “orientation.” This amendment is necessary to be consistent with the type of service stated in Education Code section 56363(b)(3) and 34 C.F.R. section 300.34.

Subdivision (b) is amended to replace the phrase “The person” with “Individuals.” This amendment is necessary to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide orientation and mobility services. The words “orientation and” have been added to this subdivision to accurately define this related service.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added because this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.4. INSTRUCTION IN THE HOME OR HOSPITAL

Subdivision (e) is amended to delete a reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated

instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

SECTION 3051.5. ADAPTED PHYSICAL EDUCATION FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS

Subdivision (b) is amended to replace the phrase “The person” with “Individuals.” This amendment is necessary to recognize that individuals who have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide adapted physical education.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.307 has been deleted as this regulation addresses protections for students with specific learning disabilities. Education Code section 56363(b)(5) has been added as a reference as this code identifies adapted physical education as a related service.

SECTION 3051.6. PHYSICAL AND OCCUPATIONAL THERAPY

Subdivision (a)(1) is amended to clarify the scope and definition of occupational therapy services pursuant to Business and Professions Code section 2570.2.

Subdivision (b) is amended to replace the phrase “qualifications of therapists” with the phrase “Individuals providing physical or occupational therapy shall be qualified.” This amendment is necessary to recognize that individuals who are licensed by the CDCA, and also meet the minimum qualifications of the employing agency, may provide physical and occupational therapy.

Subdivision (b)(1) is deleted because the CDCA and the employing agency are the entities that determine whether a person is qualified to provide either physical or occupational therapy services.

Subdivision (b)(2) is deleted because the Board of Medical Quality Assurance has been abolished by the State of California. Physical Therapists are now licensed by the CDCA, Physical Therapy Board.

Subdivision (b)(3) is deleted because the CDCA, Occupational Therapy Board is the sole entity that licenses Occupational Therapists to practice in the State of California.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. sections 300.13(b)(5) and 300.13(b)(7) has been deleted since this section provides a definition for Elementary Schools and has no subsections. Section 300.600 of 34 C.F.R. has been deleted as a reference because this section outlines the monitoring responsibilities of State

Education Agencies. The reference to 34 C.F.R. section 300.34 has been added because this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.7. VISION SERVICES

Subdivision (a) is amended to eliminate any reference to personnel qualifications and limits the language to define this service category. While personnel must be qualified to provide vision services, minimum qualifications are governed by the LEA or public educational agency consistent with professional requirements established for this service by the CDCA or the CTC.

Subdivision (e) is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide vision services.

SECTION 3051.10. PSYCHOLOGICAL SERVICES OTHER THAN ASSESSMENT AND DEVELOPMENT OF THE IEP

Former subdivision (a) is deleted to eliminate any reference to personnel qualifications. This amendment is necessary because while personnel must be qualified to provide psychological services, minimum qualifications are governed by the LEA or public educational agency consistent with professional requirements established for this service by the CDCA or the CTC.

Subdivision (c) is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide psychological services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. The reference to 34 C.F.R. section 300.13(b)(8) has been deleted as a reference because this section provides a definition for Elementary Schools and has no subdivisions. The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.11. PARENT COUNSELING AND TRAINING

Subdivision (c) is added to recognize that individuals who are either licensed by the CDCA or have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide parent counseling and training.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The U.S.C. and the C.F.R. do not grant authority to the SBE to promulgate regulations. The reference to 34 C.F.R. section 300.13(b)(6) has been deleted as a reference since this section provides a definition for Elementary Schools and has no subdivisions. The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.14. SPECIALLY DESIGNED VOCATIONAL EDUCATION AND CAREER DEVELOPMENT

Subdivision (i) is added to recognize that individuals who have an appropriate credential issued by the CTC, and also meet the minimum qualifications of the employing agency, may provide specially designed vocational education and career development.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.14(b)(3) has been deleted as a reference since this section provides a definition for Equipment and has no subdivision (b)(3). The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.15. RECREATION SERVICES

Subdivision (d) is added to clarify that individuals who meet the minimum qualifications of the employing agency may provide recreation services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100(a) as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. The reference to 34 C.F.R. section 300.13(b)(9) has been deleted as a reference since this section provides a definition for Elementary Schools and has no subdivisions. The reference to 34 C.F.R. section 300.34 has been added as this section defines related services. The reference to 34 C.F.R. section 300.156(b)(1) has been added as this section provides federal guidance relative to qualifications that are required of related services personnel.

SECTION 3051.16. SPECIALIZED SERVICES FOR LOW-INCIDENCE DISABILITIES

Subdivisions (b), (b)(1) and (b)(2) are deleted because they refer to deadlines in the past, and the continued inclusion of this language has no merit.

Proposed subdivision (b) (formerly subdivision (b)(3)) is amended to delete the phrase “By July 1, 2009, and thereafter.” This amendment is necessary because this deadline is in the past, and the continued inclusion of this language has no merit.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code.

SECTION 3051.18. RELATED SERVICES FOR THE DEAF AND HARD OF HEARING

The title of this section has been amended to delete the reference to “designated instruction and services.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

SECTION 3054. SPECIAL CENTER

This section is being repealed because the authority for special centers was removed from statute when Education Code section 56364.2 – which pertained to “Special Centers” – was repealed by Senate Bill 1686 in 1998. Assembly Bill 1818 of 2002 further removed reference to Special Centers from Education Code section 56361, the continuum of program options.

SECTION 3060. APPLICATION FOR CERTIFICATION

Subdivision (c)(9) is amended to add the phrase “for nonpublic schools.” This amendment is necessary to clarify that the textbook requirements apply only to nonpublic schools and not to nonpublic agencies.

Subdivision (c)(22)(E) is amended to delete the phrase “of care” and replace it with the word “classification.” This amendment is necessary because it reflects the correct terminology established by the California Department of Social Services in rating licensed community care facilities.

Subdivision (c)(22)(F) is added to include a copy of the current residential care license. In previous regulations governing nonpublic school certification, a copy of the residential care license was required, however, this document was inadvertently removed from the regulations in 2009. The inclusion of this requirement is necessary due to the monitoring changes of nonpublic schools as required by Assembly Bill 114 that became effective July 1, 2011.

Subdivision (d)(7) is amended to add language linking this regulation to Education

Code section 49001. This amendment is necessary to clarify that there is a prohibition relative to the use of corporal punishment in law and that nonpublic schools must abide by this requirement.

The authority and reference citations for this regulation have been changed to more accurately identify Education Code sections 56100 as the legal citations for the SBE to adopt regulations to administer Part 30 of the Education Code. Education Code section 56520 has been added to the reference citations to clarify legislative intent for the use of behavioral interventions instead of corporal punishment.

SECTION 3061. SERVICE FEES, FINANCE AND MAINTENANCE OF RECORDS

The first paragraph in section 3061 is amended to add the word “nonpublic” before the word “agencies.” This amendment is necessary to clarify that the regulation pertains to both nonpublic schools and nonpublic agencies.

Subdivision (a) is amended to delete the phrase “designated instruction and services and.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code.

SECTION 3064. STAFF QUALIFICATIONS – SPECIAL EDUCATION INSTRUCTION

Subdivision (a)(1) is amended to remove the option for a nonpublic school to employ a person with a Temporary County Certificate. Temporary County Certificates are a short-term stand-in for the credential or permits being applied from the CTC. These certificates are issued by counties, not the CTC. This amendment is necessary because it is inappropriate to recognize a Temporary County Certificate as a formal authorization for service for any period of time. The CTC only issues Provisional Internship or Short Term Staff permits if an employer is able to document an unanticipated staffing shortage. In addition, the period of time a person can be in this position at a nonpublic school has also been removed. The CTC issues the permits for a time period as specified in law and it is, therefore, not appropriate to use regulations to further limit their term of validity.

SECTION 3065. STAFF QUALIFICATIONS – RELATED SERVICES

The first paragraph in section 3065 is amended to delete the reference to “designated instruction and.” This amendment is necessary because Education Code section 56363 states that this term means related services. It is redundant to use the term “designated instruction and services and related services.” The Individuals with Disabilities

Education Act (20 U.S.C. section 1401 [26]) and following regulations (34 C.F.R. section 300.34) use the term “related services” to mean designated instruction and services. This paragraph is also amended to add the word “nonpublic” before the word “agencies.” This amendment is necessary to clarify that the regulation pertains to both nonpublic schools and nonpublic agencies.

Former subdivisions (a)(1) through (a)(1)(B) are deleted because adapted physical education is defined in section 3051.5.

Subdivision (a) (formerly subdivision (a)(2)) is amended to add the phrase “as defined in section 3051.5.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for adapted physical education.

Subdivision (b)(2)(H) is amended to replace the word “handicapped” with “impaired.” This amendment is necessary to represent current word usage by the CTC when issuing credentials.

Former subdivision (c)(1) is deleted because audiological services are defined in section 3051.2.

Subdivision (c) (formerly subdivision (c)(2)) is amended to add the phrase “as defined in section 3051.2.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for audiological services.

Subdivision (e) is amended to replace behavior “modification” with behavior “intervention.” This amendment is necessary to make this section’s terminology consistent with the regulatory language subsequently introduced through the “Hughes Bill,” Assembly Bill 2586 (Chapter 959, Statutes of 1990) and with Education Code sections 56520, 56523 and 56524.

Former subdivision (f)(1) is deleted because counseling and guidance is defined in section 3051.9.

Subdivision (f) (formerly subdivision (f)(2)) is amended to add the phrase “as defined in section 3051.9.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for counseling and guidance.

Former subdivision (g)(1) is deleted because early education programs for children with disabilities are defined in Education Code section 56426.

Subdivision (g) (formerly subdivision (g)(2)) is amended to add the phrase “as defined in Education Code section 56426.” This amendment is necessary to refer interested parties to the section that provides a definition for early education programs. The words “all other requirements of” and “chapter 4.4 commencing with” are deleted for purposes of grammatical clarity. Reference to Education Code section 56425 is deleted because this section addresses the infant program mandate. Education Code

section 56426.2 is added because this section describes the program requirements for early education services pursuant to existing state law.

Subdivisions (h)(1) and (h)(1)(A) are deleted because the subdivisions refer to a deadline in the past, and the continued inclusion of this language has no merit.

Subdivision (h)(1) (formerly (h)(1)(B)) is amended to delete the phrase “By July 1, 2009, and thereafter.” This amendment is necessary because the deadline is in the past, and the continued inclusion of this language has no merit.

Subdivisions (i)(1) through (i)(1)(E) are deleted because health and nursing services is defined in section 3051.12.

Subdivision (i) (formerly (i)(2)) is amended to add the phrase “as defined in section 3051.12.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for health and nursing services.

Former subdivision (j)(1) is deleted because home and hospital instruction is defined in section 3051.4.

Subdivision (j) (formerly (j)(2)) is amended to add the phrase “as defined in section 3051.4.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for home and hospital instruction.

Subdivision (k)(1) is deleted because language and speech development and remediation is defined in section 3051.1.

Subdivision (k) (formerly (k)(2)) is amended to add the phrase “as defined in section 3051.1.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for language and speech development and remediation.

Proposed subdivision (k)(2)(A) is added to clarify the provisions of Education Code section 56363(b)(1) that allow Speech-Language Pathology Assistants to provide Language and Speech Development and Remediation Services; however, Business and Professions Code section 2320(i) requires the Speech-Language Pathology Assistants to be under the supervision of a Speech-Language Pathologist.

Subdivision (l)(1) is deleted because occupational therapy is defined in section 3051.6.

Proposed subdivision (l) is added to recognize that Music Therapy is a specific related service that may be necessary for special education students to benefit from their education. This amendment is necessary because without this addition, music therapy could not be accessed by LEAs through the nonpublic school and agency certification program.

Subdivision (m) (formerly (l)(2)) is amended to add the phrase “as defined in section 3051.6.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for occupational therapy.

Subdivision (m)(1) is deleted because orientation and mobility instruction is defined in section 3051.3.

Subdivision (n) (formerly (m)(2)) is amended to add the phrase “as defined in section 3051.3.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for orientation and mobility instruction.

Subdivision (n)(1) is deleted because parent counseling and training is defined in section 3051.11.

Subdivision (o) (formerly (n)(2)) is amended to add the phrase “as defined in section 3051.11.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for parent counseling and training.

Subdivisions (o)(1)(A) through (o)(1)(E) are deleted because physical therapy is defined in section 3051.6.

Subdivision (p) (formerly (o)(2)) is amended to add the phrase “as defined in section 3051.6.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for physical therapy.

Subdivisions (q)(1)(A) through (C) are deleted because recreation services are defined in section 3051.15.

Subdivision (r) (formerly (q)(2)) is amended to add the phrase “as defined in section 3051.15.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for recreation services.

Subdivisions (r)(1)(A) through (C) are deleted because social worker services are defined in section 3051.13.

Subdivision (s) (formerly (r)(2)) is amended to add the phrase “as defined in section 3051.13.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for social worker services.

Subdivision (s)(1) is deleted because specialized driver training instruction is defined in section 3051.8.

Subdivision (t) (formerly (s)(2)) is amended to add the phrase “instruction, as defined in section 3051.8.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for specialized driver training instruction. The word “instruction” is added to this subdivision to accurately describe this related service.

Subdivisions (t)(1)(A) through (H) are deleted since specially designed vocational education and career development is defined in section 3051.14.

Subdivision (u) (formerly (t)(2)) is amended to add the phrase “as defined in section 3051.14.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for specially designed vocational education and career development.

Subdivisions (u)(1)(A) and (B) are deleted because specialized services for low incidence disabilities are defined in section 3051.16.

Subdivision (v) (formerly (u)(2)) is amended to add the phrase “as defined in section 3051.16.” This amendment is necessary in order to refer interested parties to that portion of the regulations that provides a definition for specialized services for low incidence disabilities.

Subdivisions (w)(1)(A) and (B) are deleted because vision services is defined in section 3051.7.

Subdivision (x) (formerly (w)(2)) is amended to add the phrase “as defined in section 3051.7.” This amendment is necessary to refer interested parties to that portion of the regulations that provides a definition for vision services.

NOTE SECTION: The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Business and Professions Code section 2530 has been added as a reference since this code is the Speech-Language Pathologists and Audiologists Licensure Act and provides the requirements to provide speech therapy and related services in California. Business and Professions Code section 2570.2 has been added as a reference since this code provides the requirements to provide occupational therapy in California. Education Code section 56363 has been added as a reference since this code defines and lists related services for special education students in California. Education Code section 56426 has been added as a reference as this code established the purpose and focus for California’s early education programs. Education Code section 56426.1 has been added as a reference as this code defines home-based early education programs. Education Code section 56430 has been added as a reference since this code describes the various methods of providing early education programs in California.

SECTION 3068. APPEALS INFORMATION

The title of this section is amended to remove the words “and Waivers” and add the word “Information.” This amendment is necessary in order to be more reflective of the contents found in this section. Information relative to waiver requests is found in Education Code section 56366.2.

Subdivision (e) is deleted because it is unnecessary. Specific and detailed information to request the State Superintendent of Public Instruction (SSPI) to waive specific sections of the Education Code is found in Education Code section 56366.2.

The authority for this regulation has been changed to more accurately identify Education Code section 56100 as the legal citation for the SBE to adopt regulations to administer Part 30 of the Education Code. Education Code section 56101 has been deleted as a reference since this code discusses waivers requested from the SBE. Section 3068 addresses only appeals made to the SSPI.

SECTION 3083. SERVICE NOTICE

The preamble and subdivisions (a) and (c) are amended to delete reference to the Special Education Hearing Office (SEHO). This amendment is necessary because the SEHO has not provided special education due process hearings and mediations since 2005. The proposed new reference reflects the language found in federal regulations pertinent to this function.

SECTION 3084. EX PARTE COMMUNICATIONS

Subdivision (b) is amended to delete reference to the SEHO. This amendment is necessary because the SEHO has not provided special education due process hearings and mediations since 2005. The proposed new reference reflects the language found in federal regulations pertinent to this function.

SECTION 3088. SANCTIONS

Subdivision (e) is amended to delete reference to the SEHO. This amendment is necessary because the SEHO has not provided special education due process hearings and mediations since 2005. The proposed new reference reflects the language found in federal regulations pertinent to this function.

ECONOMIC IMPACT ANALYSIS PER GOVERNMENT CODE SECTION 11346.3(b)

The Special Education Division does not have any information that the proposed amendments would have any measurable effect on business because the purpose of introducing this rulemaking process is to update state regulations by bringing them into alignment with existing state statutes and federal statutes and regulations.

Therefore, amendment 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.

Updating these regulations will help to ensure the consistent application of existing laws throughout California's educational entities for all students with IEPs; to standardize guidance for monitoring purposes for compliance with state and federal requirements;

and to facilitate the appropriateness of administrative and judicial decisions predicated on California law.

OTHER REQUIRED SHOWINGS

Studies, Reports or Documents Relied Upon – Gov. Code. Section 11346.2(b)(3):

The SBE did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption, amendment, or repeal of these regulations.

Reasonable Alternatives Considered Or Agency's Reasons For Rejecting Those Alternatives – Gov. Code Section 11346.2(b)(5)(A):

No other alternatives were presented to or considered by the (SSPI or SBE).

Reasonable Alternatives That Would Lessen The Impact On Small Businesses – Gov. Code Section 11346.2(b)(5)(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 Regulations Will Not Have A Significant Adverse Economic Impact on Business – Gov. Code Section 11346.2(b)(6):

The proposed regulations would not have a significant adverse economic impact on any business.

Analysis Of Whether The Regulations Are An Efficient And Effective Means Of Implementing The Law In The Least Burdensome Manner – Gov. Code Section 11346.3(e)

The regulations have been determined to be the most efficient and effective means of implementing the law in the least burdensome manner.



California State Board of Education

Meeting Agenda Items for May 8-9, 2013

ITEM 23 ATTACHMENT 1 REVISED

**California Department of Education Recommended 2013–15
 Supplemental Educational Services Additional Provider Applicant List
 Based on Appeal**

Provider Name	English- Language Arts	Mathematics	Science	English Learners	Students with Disabilities	Online	Type of Entity
iAprende! Tutoring	X	X		X	X		For Profit Agency
Community College Foundation	X	X		X	X		Non Profit Agency
Professional Tutors of America	X	X	X	X	X		For Profit Agency
Studentnest, Inc. (dba: studentnest.com)		X		X	X	X	For Profit Agency
World Literacy Crusade	X	X		X	X		Non Profit Agency